

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 vs. NO: CR-15-4268 JB

6 ANGEL DELEON, et al.,

7 Defendants.

8 VOLUME 7

9 Transcript of Jury Trial before The Honorable
10 James O. Browning, United States District Judge, Las
11 Cruces, Dona Ana County, New Mexico, commencing on
12 February 6, 2018.

13 For the Plaintiff: Ms. Maria Armijo, Mr. Randy
14 Castellano, Mr Matthew Beck

15 For the Trial 1 Defendants: Ms. Amy Jacks,
16 Mr. Richard Jewkes, Ms. Theresa Duncan, Mr. Marc
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1 THE COURT: All right. Good morning,
2 everyone. I appreciate everybody being here and on
3 time. I don't know if it was today or yesterday,
4 but Ms. Standridge passed out the preliminary jury
5 instruction that I was proposing to hand to the
6 jury. Did those look okay to everybody? Have you
7 had a chance to look at it?

8 MS. ARMIJO: Yes, Your Honor, they were
9 fine.

10 MS. DUNCAN: They look fine to us, Your
11 Honor.

12 THE COURT: So I'll have Ms. Standridge
13 make 18 copies and get those to the jurors. I hope
14 to have another set. I worked last night, yesterday
15 to get you a new set of jury instructions. As you
16 can see, I'm beginning to get into the VICAR
17 portions of it. So you can see how I'm handling
18 those. We've got a ways to go. Do keep my request
19 last night in mind so we can start keeping these
20 things current so we don't run into a jam at the end
21 of the trial with not having any -- those six
22 categories, us scrambling to try to figure out what
23 we're going to put in.

24 All right. Ms. Fox-Young, did you have
25 something you wanted to raise?

1 MS. FOX-YOUNG: Yes. Good morning, Your
2 Honor.

3 THE COURT: Good morning, Ms. Fox-Young.

4 MS. FOX-YOUNG: I just wanted to let the
5 Court know that, of course, Mr. Perez is here. He
6 has not yet received all of his medications and he
7 is still feeling pretty awful. He's, of course,
8 here.

9 Based upon the Court's order I wanted to
10 make a record that yesterday afternoon and yesterday
11 morning he was sleeping intermittently and coughing
12 very loudly, so loudly, in fact, that at times at
13 least our table couldn't hear the testimony or the
14 questioning. But he did have a nebulizer treatment
15 last night and he does have an inhaler, and you
16 know, we've made the best provisions that we can for
17 him to get through today.

18 I'd just ask, if Mr. Perez does need to
19 take a quick break or is having trouble, if we could
20 let the Court know. We're just having a hard time
21 communicating with him and getting him through the
22 trial, but we're doing our best.

23 THE COURT: Yeah, there's a lot of
24 coughing going on. Ms. Bean has been coughing all
25 the way through. There have been some jurors that

1 have been coughing. I've noticed a lot of coughing.
2 I guess it's good news he doesn't have the flu. But
3 I guess we don't really know what he has; right?

4 MS. FOX-YOUNG: That's right, Your Honor.
5 And he does have some underlying conditions that
6 make him more susceptible.

7 THE COURT: That's true.

8 MS. FOX-YOUNG: And so we're keeping an
9 eye on his lungs. I know the marshals are
10 communicating with us to some degree. So we'd just
11 ask the Court to keep in mind that Mr. Perez has a
12 very frail condition and we're trying to get him
13 through this. But he was not attentive yesterday.
14 We were not able to communicate with him. I don't
15 think he even knew what was going on yesterday as
16 the proceedings continued. Thank you, Judge.

17 THE COURT: All right. If you need to
18 take a break or something, just let me know.

19 Ms. Standridge, while you were out of the
20 room, everybody approved those jury instructions.
21 So if we'll go ahead and make 18 copies of those, we
22 can give those to the jurors. And I've given
23 Brennan Hammond a set of jury instructions to get to
24 Mary today and pass out to the attorneys, as well.

25 THE CLERK: Okay.

1 THE COURT: All right. Mr. Lowry, you
2 have something?

3 MR. LOWRY: Yes, Your Honor, I do. At the
4 end of the proceedings yesterday, Mr. Beck made an
5 objection that I was misrepresenting the record.
6 And I think -- I spoke to Mr. Beck this morning. I
7 think this is more of a misunderstanding. I was
8 cross-examining Mr. Urquizo about his understanding
9 of whether the death penalty was possible, and he
10 made reference -- what I believe, made reference to
11 this case and was following this case in the news,
12 and said the death penalty in this case was still on
13 the books. And that was my interpretation of what
14 the witness was saying.

15 And so when I questioned him directly
16 about the death penalty in this case was taken off
17 in June of 2016, Mr. Beck objected and said that I
18 was misrepresenting the facts.

19 I spoke to Mr. Beck this morning, and he
20 can speak for himself, but I think the Government's
21 position was that they understood Mr. Urquizo to be
22 talking about his specific case. I went back and
23 looked at the daily transcript, and I'm still of the
24 opinion that we were talking about proceedings in
25 this case.

1 So rather than get down in the weeds, I
2 was hoping to get some kind of instruction from the
3 Court that nobody has misrepresented the facts of
4 this case or attempted to.

5 THE COURT: Well, I think that -- well,
6 let me hear from Mr. Beck before -- we kind of were
7 heading out when we had this conversation.

8 MR. BECK: I tried to pull up the
9 transcript and I couldn't, so I'm looking at the
10 real-time. Mr. Lowry asked, "So you lied to your
11 sister and you lied to his wife. "No. I didn't
12 lie" -- and then the answer is, "No, I didn't lie.
13 I made -- I was thinking that right away because I
14 had seen that on the news and everybody else.
15 That's why."

16 Mr. Lowry said, "You followed that case on
17 the news. Did you realize that the death penalty
18 was taken off?"

19 And Mr. Urquizo said, "Actually, it wasn't
20 taken off at that time."

21 Mr. Lowry says, "That was February."

22 He says, "A little after that, it was
23 taken off. In February, it was still on."

24 Mr. Lowry asked, "It was still off June 9,
25 2016?"

1 He asked, "Okay, when this happened,
2 February 25."

3 And so what happened is, they were talking
4 about -- I believe Mr. Urquizo said when "Actually
5 it wasn't taken off the table at that time," Mr.
6 Urquizo was talking about his death penalty
7 protocol. And indeed, his death penalty protocol
8 was still on the table at that time. It was not
9 taken off until, I believe, sometime the middle of
10 last year, which would have been the middle of 2017.
11 And so when he says, "It was taken off June 9" --
12 when Mr. Lowry says, "It was taken off June 9,
13 2016," Mr. Urquizo says, "Okay, when did this
14 happen?" "February 25." That's not accurate. Mr.
15 Urquizo's death penalty was still on the table at
16 that time. So what I said is I objected because
17 there was misstatement of the evidence at that
18 point. Mr. Urquizo's death penalty was still on at
19 that time.

20 THE COURT: Well, this is the way I sort
21 of analyzed it. It seemed that before the break,
22 without tying it in any way to Mr. Acee or anything
23 else, he seemed to have communicated to the people
24 on call that he was death-penalty eligible, and he
25 knew that he was not; and therefore, he could be

1 impeached. We'll let the jury decide whether he was
2 or not. I do think these are not collateral issues
3 and so I'm allowing a little bit of proof by the
4 defendants because I don't think these are
5 collateral. And that's just where I was. You asked
6 for the instruction. I gave the instruction. So if
7 you don't want the instruction, that's fine. But --

8 MR. BECK: I understand, Your Honor. I
9 think the curative instruction last night was
10 confusing because we asked for it if he was
11 impeached. I thought he wasn't impeached, the Court
12 did. I sort of --

13 THE COURT: Well --

14 MR. BECK: In the heat of the moment -- I
15 understand the Court's instruction, and I think it
16 was --

17 THE COURT: The instruction doesn't tell
18 the jury that he was impeached. It just simply
19 states that's the reason that the evidence was
20 brought in. They make the determination. But
21 you'll have to make a call as to whether you want
22 the instruction or not. A lot of people don't want
23 it because it doesn't -- isn't helpful and it may
24 hurt them with the evidence. But you're entitled to
25 it if you want it.

1 MR. BECK: I understand, Your Honor. And
2 I looked back at the transcript and saw that we had
3 asked for it previously, and then I thought that he
4 was not. So I'm past that. I understand.

5 THE COURT: Yeah, I don't make the
6 determination as to whether he's impeached. I
7 simply make a determination that this evidence is
8 coming in for that purpose.

9 MR. BECK: Sure.

10 THE COURT: If you want the instruction,
11 you're entitled to it.

12 MR. BECK: Right, Your Honor.

13 MR. LOWRY: Well, Your Honor, I guess we
14 missed the boat on my issue, which was, I think
15 there was not a meeting of the minds between the
16 three parties here about what the conversation was.
17 Because when there was a mention about the news, my
18 interpretation was: We were talking about the
19 proceedings in this case, and not his individual
20 case.

21 THE COURT: So I allowed you to impeach
22 him on it.

23 MR. LOWRY: Well, no. There was an
24 objection that I was trying to misrepresent the
25 facts. I had no idea what the Government was doing.

1 I was not even privy to those facts. So I couldn't
2 misrepresent facts that I had no knowledge of.

3 THE COURT: Okay. All right.

4 All rise.

5 (The jury entered the courtroom.)

6 THE COURT: All right. Everyone be
7 seated.

8 Good morning, ladies and gentlemen. I
9 appreciate you being back and on time and ready to
10 go. I appreciate counsel doing the same. I
11 appreciate everybody making a real effort to keep
12 things on track so we can keep the commitment to you
13 as to how long this trial is going to last and keep
14 it moving.

15 Ms. Standridge will be passing out to you
16 a preliminary instruction, the one I read at the
17 beginning that you've already heard. But in there
18 you'll see the names of the counsel, you'll see the
19 names of the defendants, and you'll also see the
20 charges here. So if that helps you, you'll have
21 that here in a few minutes.

22 All right, Mr. Urquizo, I'll remind you
23 that you're still under oath.

24 THE WITNESS: Okay.

25 THE COURT: Mr. Lowry, if you wish to

1 continue your cross-examination, you may do so at
2 this time.

3 MR. LOWRY: Thank you, Your Honor. May it
4 please the Court.

5 THE COURT: Mr. Lowry.

6 GUADALUPE URQUIZO,
7 after having been previously duly sworn under
8 oath, was questioned, and continued
9 testifying
as follows:

10 CONTINUED CROSS-EXAMINATION

11 BY MR. LOWRY:

12 Q. Good morning, Mr. Urquizo.

13 A. Good morning.

14 Q. At the end of yesterday we were talking
15 about whether your case was death-eligible.

16 A. Yes, sir.

17 Q. And you said you were following this case
18 in the news.

19 A. The news, and we had -- where I was at, we
20 had all the paperwork on the RICO indictment, so
21 everybody got indicted. So that's how I know
22 everything that was happening.

23 Q. In this case?

24 A. In all the cases, yes. Everybody got
25 charged.

1 Q. Okay. So were you aware that the death
2 penalty was removed from the public cases by
3 February of 2017?

4 A. No, I wasn't. I don't think so.

5 MR. LOWRY: May I approach the bench, Your
6 Honor? I mean, approach the witness?

7 THE COURT: You may.

8 BY MR. LOWRY:

9 Q. Now, Mr. Urquizo, I've handed you two
10 separate court documents.

11 A. Um-hum.

12 Q. Can you read the dates that those were
13 filed, at the very top of the document?

14 A. Filed 9/13/2016.

15 Q. And what was the second one filed?

16 A. The second one was on June 6, 2016.

17 MR. LOWRY: May I approach?

18 Q. And would you agree with me that both of
19 these documents were entitled "Notice of intent not
20 to seek a sentence of death"?

21 A. That's what it says on there, yes.

22 Q. And that was before your first meeting
23 with the FBI in 2017?

24 A. Yes.

25 Q. Now, in your testimony yesterday, you said

1 that you didn't learn about the death penalty from
2 your meeting with the FBI; that that's something you
3 came up with on your own.

4 A. No, I didn't say I came up -- I said I
5 made an assumption because we had the paperwork of
6 all the indictments. When it happened, they were
7 placing the death penalty. So that's why I said
8 that.

9 Q. Okay. So that was an assumption you made?

10 A. Because we had the paperwork on the RICO
11 indictments.

12 Q. We're going to play a recording marked as
13 Z-3.

14 MR. BECK: Your Honor, may we approach?

15 THE COURT: You may.

16 (The following proceedings were held at
17 the bench.)

18 MR. BECK: So I don't know what this
19 recording is and what the purpose is.

20 THE COURT: What are we about to hear?

21 MR. LOWRY: Your Honor, we're about to
22 hear a call to his brother that was made after the
23 call we posted yesterday. By the way, the call
24 yesterday said that the FBI told him he was looking
25 at the death penalty. He's just testified that that

1 wasn't the case. This is something that he came up
2 with on his own, and here he is making a second
3 call, talking to his brother, and saying the FBI
4 told him he was looking at 20 years, life, or the
5 death penalty. So this is direct impeachment of his
6 testimony.

7 THE COURT: And you're positive he says
8 the FBI told him?

9 MR. LOWRY: Yes, I am, Your Honor. I
10 listened to it twice last night.

11 THE COURT: Okay.

12 MR. BECK: I'll take him -- I think
13 yesterday's call did not say that the FBI told him.
14 The FBI talked to him about 30 years, and was
15 consistent about that. He said he thought could
16 face the death penalty; that's fine. If this call
17 says the FBI told him that, I think it's proper
18 impeachment.

19 MR. LOWRY: Your Honor, he says -- I mean,
20 he says, "The FBI came and talked to me, they said I
21 could do this, this, or this."

22 THE COURT: Okay. Well, go ahead and play
23 it, then.

24 (The following proceedings were held in
25 open court.)

1 THE COURT: Mr. Lowry.

2 MR. LOWRY: Your Honor, we'll come back to
3 this.

4 BY MR. LOWRY:

5 Q. Suffice it to say that after that initial
6 encounter with the FBI, you did get an attorney.

7 A. Yes.

8 Q. And you set up a second meeting with the
9 FBI and the prosecutors for March 6, 2017?

10 A. Yes, I did.

11 Q. And at that meeting -- that happened in
12 Albuquerque, New Mexico?

13 A. No, Las Cruces, New Mexico.

14 Q. Right here?

15 A. Las Cruces.

16 Q. Las Cruces. And so they transported you
17 all the way down here early in the morning?

18 A. Yes.

19 Q. Okay. And you sat down to talk with them
20 about this case?

21 A. Yes.

22 Q. And they gave you a letter saying, "You
23 can say anything you want and it won't be used
24 against you"; correct? A Kastigar letter?

25 A. Right. Right.

1 Q. And you sat down and told them what you
2 knew?

3 A. Correct.

4 Q. What they asked you about at the February
5 24 meeting.

6 A. Yeah.

7 Q. Okay. And you told them that you had
8 spoke with Mr. Baca sometime in 2012 or 2013?

9 A. Somewhere around there, yes.

10 Q. Was that in the winter of 2012?

11 A. I think it was around August of 2012.
12 Around August. Somewhere around there.

13 Q. Okay. August of 2012 you spoke to Mr.
14 Baca?

15 A. I'm not exactly sure the month and the
16 date, but it was somewhere around that time.

17 Q. Okay. So we're going to play for you the
18 clip.

19 (Tape played.)

20 MR. LOWRY: I apologize, Your Honor, it's
21 the wrong clip.

22 MR. BECK: And Your Honor, can we get an
23 instruction to the jury just to strike or disregard
24 if some of them understood. I didn't, but
25 apparently there was some mention of it. I don't

1 think anything in there was relevant.

2 THE COURT: All right. Let's just
3 disregard, and I'll strike from the record that tape
4 that was played.

5 BY MR. LOWRY:

6 (Tape played.)

7 Q. So when you were talking to your brother,
8 you said they, meaning the FBI, could hit you with
9 20 years, a life sentence, or the death penalty?

10 A. That's what it sounded like, yes.

11 Q. And after you talked to your brother about
12 that situation, that's when you decided to come down
13 to Las Cruces to meet with the prosecutors and the
14 FBI?

15 A. Yes.

16 Q. And when you came down, you were feeling
17 out the situation with them to see what they could
18 do for you?

19 A. I wasn't feeling the situation. I just
20 wanted to talk to my family and see if I wanted to
21 go through with it. That was it.

22 Q. And actually, at that meeting your wife
23 was there, wasn't she?

24 A. Yes, for a while, yes.

25 Q. Okay. And you spoke at length about this

1 case?

2 A. What do you mean? Yeah, I spoke to them,
3 yes.

4 Q. And we talked about this a bit yesterday.
5 You told the FBI and the prosecutors that you had
6 spoke with Mr. Baca. Now you're saying in August of
7 2012.

8 A. I mean, I don't know the exact date and
9 time and all that. I mean, if you're trying to get
10 me to lie about everything like that, I don't know
11 what to tell you. I mean, it's hard to remember
12 every single thing, you know.

13 Q. I'm not trying to get you to lie. I'm
14 trying to figure out what happened. So when did you
15 meet with Mr. Baca, according to you?

16 A. If you ask me what day and time and all
17 that, I can't tell you exactly what month, what
18 date. But I know it was in 2012.

19 Q. Right. Well, you told the FBI and the
20 prosecutors it could have been 2013.

21 A. Late 2012 or early 2013. That's what I
22 said.

23 Q. And my question to you was: Does that
24 mean the winter of 2012?

25 A. I think it's a little bit before that,

1 because I told them that, but I'm not too sure
2 exactly. It happened in 2012. For a fact, it
3 happened in 2012.

4 Q. Okay. So when you told them it could have
5 happened in 2013, you were wrong?

6 A. Yeah. I was trying to figure it out. I
7 mean, there were so many questions coming my way, so
8 I was trying to figure it out.

9 Q. Okay. And according to you, where did
10 that conversation take place?

11 A. Housing unit 3-B at the North facility.

12 Q. And what pod were you in?

13 A. I was in W pod, and Anthony Baca was in X
14 pod.

15 Q. How long had you been housed in W pod?

16 A. I wasn't there that long. I had just got
17 there from housing unit 3-A.

18 Q. So what does that mean, you weren't there
19 that long?

20 A. Maybe a few weeks. I'm not too sure.

21 Q. And how would you have communicated with
22 somebody in the pod next door?

23 A. That's easy. We went outside. We talked
24 in the rec.

25 Q. Now, at that point you had discussed with

1 them about you traveling from PNM South in Santa Fe
2 down to Southern here in Las Cruces?

3 A. Will you ask me the question again?

4 Q. Sure. When you spoke to them on March 6,
5 2017, you talked to them about your transfer from
6 PNM South, in Santa Fe, to Southern in Las Cruces.

7 A. Actually, they transferred me to PNM
8 North. And when I came to Las Cruces, I asked them
9 if they could transfer me to Southern.

10 Q. So are you saying you didn't know you were
11 coming down to Southern?

12 A. I don't understand what -- to talk to
13 them? Yes, I knew I was coming down to talk to
14 them. But I requested to go to Southern.

15 Q. My question to you, Mr. Urquizo, is: When
16 you spoke to these folks on March 6, 2017, right,
17 you talked to them about your transfer in early 2014
18 from PNM --

19 A. Oh.

20 Q. -- in Santa Fe to the Southern facility
21 here in Las Cruces.

22 A. Yes, yes.

23 Q. Okay. And you told them that when you got
24 to Southern you were assigned HU 1-A, yellow pod, A
25 pod?

1 A. Yes, sir.

2 Q. And when you came into the pod, you told
3 them that you had a conversation with Mario
4 Rodriguez and Timothy Martinez?

5 A. That's right.

6 Q. But when you were talking to them on March
7 6, you told them that you had that conversation by
8 holding up notes to a glass window.

9 A. No. That's not -- no, that's not what I
10 said. What I said is, as soon as I walked in, they
11 were by the window. I talked to them. They told me
12 to go to the side door. And when I went to the side
13 door, Mario Rodriguez asked me if I had that, and he
14 slid a letter underneath the door that he already
15 had written, because he knew I was already there
16 for, like, three hours, because my name was on the
17 board. That's what I said.

18 Q. Okay. But in the FBI's report of your
19 meeting on March 6, it says that "Rodriguez asked
20 Urquizo if he had brought paperwork, and Rodriguez
21 held the note up to the door."

22 A. No, that's not what I said. That's not
23 what I said.

24 Q. That's not what you said?

25 A. No.

1 Q. So Mr. Acee got it wrong when he wrote it?

2 A. No, I said he slid the letter under the
3 door.

4 Q. Okay.

5 A. You can't hold a letter to the window.
6 There is no window on the side door.

7 Q. Could we bring up E-8? Now, this isn't
8 yellow pod. This is blue pod. But when you're
9 talking about the door, you're talking about these
10 two doors; right?

11 A. When I first seen -- yes, when I first
12 walked in and seen Mario, it was at the front door.
13 It has a little window. I seen Mario and Timothy
14 Martinez, and they told me go to the side door.
15 That's the side door I went to, the bottom tier.

16 Q. Okay. Because that's where your housing
17 unit -- you were in cell 110.

18 A. Yes, which is two doors down from where
19 that door is right there in yellow pod.

20 Q. Can I show E-17 real quickly?

21 And you would agree with me that E-17 --
22 this is a shot of what that door between the pods
23 looks like?

24 A. Um-hum.

25 Q. It's a solid door?

1 A. Yes.

2 Q. No window?

3 A. No, there is no window. I just told you I
4 didn't talk to him through a window right there.

5 Q. Okay. Could I get G-162, please?

6 Do you recognize this schematic at all?

7 A. Kind of looks like, yeah, the shape of the
8 unit.

9 Q. Okay. And you would agree with me that
10 this is what we refer to as the blue pod?

11 A. I think so, yes. I would like to see the
12 color of it to know exactly. But, yeah, I think so.

13 Q. And we were just looking at photographs of
14 the blue pod?

15 A. Right.

16 Q. Okay. And this would be the yellow pod,
17 where you were housed?

18 A. Right.

19 Q. And this would be the green pod?

20 A. Right.

21 Q. Okay. And if you were in room 110, this
22 would have been your cell right there?

23 A. On the bottom tier, yes.

24 Q. On the bottom tier?

25 A. Right.

1 Q. So if the FBI report indicates that you
2 were communicating with folks in the next pod
3 through glass, that's what you told them on March 6?

4 A. You're misunderstanding what you're
5 reading. That says, "When I first arrived to the
6 unit Mario Rodriguez and Timothy Martinez were
7 standing in front of blue pod, which has a little
8 window, and I talked to them right there through the
9 front, and then he told me, 'Go to the side door,'"
10 and that's where I went, which is the side door when
11 I went to yellow pod.

12 Q. So you didn't hold up any notes to them on
13 the glass when you walked in?

14 A. No, I just came in. No.

15 Q. Now, the purpose of meeting with the
16 Government was to tell them everything that you
17 thought you knew about the Molina murder?

18 A. Not what I thought; what I know.

19 Q. Okay. You didn't say anything about this
20 meeting with Mr. Baca the day that you departed from
21 the North facility to the South facility.

22 A. What do you mean? Yes, I had told them
23 right away. I had told them that I talked to them
24 about it.

25 MR. LOWRY: May I approach, Your Honor?

1 THE COURT: You may.

2 BY MR. LOWRY:

3 Q. Mr. Urquizo, I handed you a report of your
4 meeting with the FBI and the prosecutors on March 6,
5 2017. Take your time to review it and show me in
6 that report where you discussed the meeting with Mr.
7 Baca the day that you left for the South facility.

8 A. No, I told you that I discussed it with --
9 the first time I talked to Acee, he asked me more or
10 less to give him a little detail so he could see
11 that I was being truthful. And right there it does
12 say the first time I heard about the hit with Molina
13 was 2012, 2013. And I told you that's around the
14 time that I talked to Anthony Baca. So that's how I
15 learned about it.

16 Q. I think you told me it was in August.

17 A. Oh, man. Well, what I'm saying is: I
18 don't know the exact date, month or time. I mean,
19 if you're trying to get me about that, I don't know
20 what to tell you. I don't know the exact date. I
21 didn't write it down. If I knew I was going to be
22 testifying back, then I would have wrote everything
23 down on a paper so I could have exact dates. But I
24 wasn't thinking like that back then.

25 Q. So you don't know what time of day it was?

1 A. No. What I'm saying is: It seems to me
2 like that's what you want me to tell you, the exact
3 month, exact date, the exact time, and I can't tell
4 you all that because I can't remember every single
5 detail.

6 Q. No, I'm just asking you what time of day
7 it was.

8 A. What do you mean? It was daytime.

9 Q. Was it the morning?

10 A. Yeah. Well, we went to rec, so it had to
11 be between -- we go to the rec from 7:00 to 4:00, so
12 it had to be between that time.

13 Q. So in this report show me where you spoke
14 to the FBI about this meeting with Mr. Baca when you
15 were transferred from the North facility to the
16 South facility.

17 A. It does tell you right there that when I
18 was in W-5, North facility, I spoke to Baca. It
19 does say it right there.

20 Q. That is the meeting in August. When were
21 you transferred from the North facility to the South
22 facility?

23 A. Actually, it's not the meeting from
24 August. If I'm looking at the paper, you told me
25 the dates to look at it, it says 3/16/2017.

1 Q. Mr. Urquizo, I'm asking you a simple
2 question. When were you transferred from the North
3 facility to the South facility in Santa Fe?

4 A. Before when this happened, or --

5 Q. I'm just asking you a very simple
6 question. When were you transferred from the North
7 facility to the South facility before you arrived at
8 Southern just before the Molina murder?

9 A. It was in, I believe, late 2012.

10 Q. Okay. So the last meeting you had with
11 Mr. Baca would have been?

12 A. Before I went to the South.

13 Q. And so you're saying that that's the
14 meeting you're talking about there on the front page
15 of that report?

16 A. Yes.

17 Q. Now, when you met with the FBI on March 6,
18 did you listen to audio recordings of you with other
19 inmates that were made in the facility?

20 A. No.

21 Q. You didn't?

22 A. No.

23 Q. Okay. Did they talk to you about your
24 brother's exposure to criminal liability for
25 assisting you in shot-calling at South?

1 A. No, that's not exactly what happened.
2 When I decided to talk to the FBI and to the U.S.
3 Attorneys, I told them that there was something that
4 happened that kind of involved my brother, but he
5 did not know that he was actually involved. So I
6 wanted to make sure that nothing happened to him if
7 I spoke about it, and they said they weren't after
8 him.

9 Q. And they told you if you cooperated with
10 them, they'd make sure your brother didn't get into
11 trouble?

12 A. No, they told me from the get-go that they
13 weren't after him.

14 Q. Then why were they asking questions about
15 your brother's involvement in shot-calling down in
16 Las Cruces?

17 A. No, that's not what they were asking me.
18 I told them that Mario Rodriguez and Jerry Montoya
19 made a phone call to my brother not to forget for me
20 to get that letter. So I told them that, but I
21 didn't want my brother -- because he didn't know
22 what was happening. So they said, "We're not after
23 your brother."

24 Q. Well, you made a deal with them so your
25 brother wouldn't get prosecuted.

1 A. No, that's not what I did, no. I just --
2 they straight, flat-out told me from the get-go that
3 they were not after my brother; they weren't
4 concerned about that.

5 Q. Following that meeting, you called your
6 brother and told your brother that the FBI was
7 asking questions about his criminal conduct. Do you
8 remember that?

9 A. No, I don't remember that. They didn't
10 ask me. They just asked me if he was an SNM Gang
11 member, and I said yes. That was it.

12 Q. Do you remember telling your brother that
13 not only were they asking questions; you tried to
14 deflect those questions?

15 A. No, I don't remember saying that. I can't
16 remember. And if you're asking me, it wasn't
17 actually the FBI that asked me about that. It was
18 some lawyer who came to talk to me about all that
19 stuff, and it was for -- Billy Garcia's lawyer.
20 Now, that's who came and asked me a lot of questions
21 about my brother, about being in Southern.

22 Q. But when you were talking with the
23 prosecutors in this case, they were asking about
24 your brother's drug-dealing activities between New
25 Mexico and Baltimore, Maryland, and yours?

1 A. No, I never -- I never drug-dealed from
2 here to Baltimore or nothing like that.

3 Q. You're from Clovis; correct?

4 A. Correct.

5 Q. And you knew David Calbert because he's
6 from Clovis.

7 A. Right.

8 Q. And you knew Eric Duran, because he's from
9 Clovis.

10 A. Correct.

11 Q. And are you telling this jury you didn't
12 work with Eric Duran and his drug dealings?

13 A. No, I didn't. I never did work with Eric
14 Duran, no.

15 Q. So you called your brother to tell them
16 that he was in the clear because you worked out a
17 deal with the Government where he wouldn't get
18 prosecuted?

19 A. No. I just told my brother that he had
20 nothing to worry about because he wasn't involved in
21 anything. And I told him what happened with me,
22 telling them about Jerry Montoya and Mario Rodriguez
23 calling them.

24 Q. You actually told your brother that if you
25 cooperated with the United States they were going to

1 take care of everything and he'd be safe.

2 A. I mean -- of course. After I decided that
3 I was going to testify, I was going to be worried
4 about him. He's an SNM Gang member. I mean, come
5 on.

6 Q. That was part of your deal. That was a
7 benefit you got from the United States, that your
8 brother wasn't going to get prosecuted.

9 A. I don't know if that's a benefit. That's,
10 like, looking out for my brother as well as my
11 family. Now my life is in danger, the rest of my
12 life. What I'm doing right now, sitting right here
13 telling.

14 Q. But my question to you, Mr. Urquizo, is:
15 They told you if you cooperated, they would not
16 prosecute your brother.

17 A. Man, they didn't tell me that. I mean,
18 you keep asking the same question. I'm going to
19 tell you the same answer. They didn't tell me that.

20 Q. Do you remember telling your brother that?

21 A. Like I told you, I told him that I talked
22 to them and I told them about the phone call, and
23 they weren't going to mess with him. They told me
24 they're not after him, and that's what it was.

25 Q. How did you know that they weren't going

1 to mess with him if you didn't have a deal?

2 A. Because my brother has never done nothing
3 for SNM, to begin with. Everything that -- I've
4 actually done everything so they wouldn't mess with
5 my brother. He's my little brother, so I protect my
6 little brother always.

7 MR. LOWRY: Your Honor, I'm going to play
8 another audio clip of a conversation that Mr.
9 Urquizo had with his brother on March 12, following
10 his meeting with the United States on March 6. And
11 part of this is in Spanish. Exhibit Z-4.

12 (Tape played.)

13 Q. When you're talking about -- you said to
14 your brother, "I want to make sure my carnal is all
15 good, too, and all that, you know."

16 A. But if you listen to the beginning of the
17 call, I was talking about Wild Bill's lawyers.

18 Q. Sure. At the beginning --

19 A. And they're the ones that started talking
20 about all this stuff that happened in Las Cruces.
21 So I then brought it to their attention about what
22 was happening with Wild Bill's lawyers. So all
23 that -- the whole beginning of the conversation was
24 talking about Wild Bill's lawyers.

25 Q. But at the end of the conversation, you're

1 talking about your brother, and you tell the United
2 States you want to make sure your carnal is all
3 good, too, and all that.

4 A. Well, you just hear the beginning of the
5 conversation with -- Wild Bill's lawyers came, they
6 were asking us about stuff that happened in Las
7 Cruces back in the early 2000s that we had no part
8 of it.

9 Q. Did Wild Bill's lawyers tell you, "If
10 you're truthful, and everything, we'll take care of
11 everything"?

12 A. No.

13 Q. Of course not. Because that's what the
14 United States told you.

15 A. Wild Bill's lawyers was trying to throw
16 things off on us. That's what they were trying --

17 Q. You were concerned about your brother
18 getting prosecuted by the United States Government.

19 A. No, not prosecuted. Maybe after Wild
20 Bill's lawyers talked to me, that maybe they would
21 want to go talk to him, and then maybe the feds will
22 maybe try to get involved in it. It wasn't for
23 sure.

24 MR. LOWRY: May I approach, Your Honor?

25 THE COURT: You may.

1 BY MR. LOWRY:

2 Q. Mr. Urquizo, there is only mention of one
3 conversation that you purportedly had with Mr. Baca
4 in this document.

5 A. Actually, there's that first time I talked
6 to him right there in the cages. And before I left
7 to the South, I talked to him again.

8 Q. But in this document that I asked you to
9 look through, there is only a mention of a single
10 conversation.

11 A. Okay.

12 Q. Now, in this document you also talked
13 about the Julian Romero assault.

14 A. Right.

15 Q. And we talked about this a little bit
16 yesterday, but in this document where you met with
17 the United States on March 6, this document says
18 that Ray Baca asked that Mr. Romero be beaten up,
19 but not be stabbed or killed.

20 A. Yeah, I think there was a mess-up right
21 there. What I was trying to say was that he
22 wanted -- Anthony Baca wanted him killed, but
23 Jonathan Gomez said, "No, we should just beat him
24 up. They should have took care of that a long time
25 ago."

1 Q. Then the next sentence of this document
2 says that Viarenga, Villegas, David Chavez, a/k/a
3 Whacky, were supposed to kill Romero despite Baca's
4 directive.

5 A. Yeah. That right there, the names got
6 switched around. I don't know if I accidentally
7 mistakenly said it like that. But what I was trying
8 to say, that it was Anthony Baca had to kill him,
9 but Jonathan Gomez said, "No, we should just beat
10 him up."

11 By this time Anthony Baca was out of state
12 already, so he wasn't be the one locked down the
13 whole time after what was going to happen.

14 Q. Let's be clear about this. You never
15 spoke directly to Mr. Baca about this Romero
16 assault.

17 A. I never said I did.

18 Q. I'm asking to be clear about it, for this
19 jury.

20 A. Yes, I never did say.

21 Q. The only thing you heard about the Romero
22 assault came from Mr. Gomez.

23 A. Yes, sir. Well, not the only time. It
24 had been ongoing for years. But yeah, that time,
25 yes.

1 Q. And that's because Gerald Archuleta wanted
2 Mr. Romero dead?

3 A. That was the original hit.

4 Q. And that's why you called Gerald
5 Archuleta, to congratulate him on a job well-done.

6 A. No. The reason I called him was because
7 that's the only way I could get hold of him, and
8 Anthony Baca was out of state. But he got word.

9 Q. So after this meeting you had with the
10 Government on March 6, 2017, you were signed up as a
11 confidential human source of information, weren't
12 you?

13 A. Yes.

14 Q. And you started receiving benefits right
15 away, didn't you?

16 A. No, not right away. Like a few months
17 afterwards.

18 Q. You had a contact visit with your wife at
19 that meeting; correct?

20 A. That's a -- yeah, I guess it is.

21 Q. Correct?

22 A. Yes.

23 Q. And you got to embrace her?

24 A. Yeah.

25 Q. And you apparently kissed her?

1 A. Yes.

2 Q. Were you alone at the time?

3 A. No, I was in there with my lawyer.

4 Q. And she bit you on the lip?

5 A. Huh?

6 Q. Did she bite you on the lip?

7 A. When she kissed me, yeah.

8 Q. She didn't bite you on the lip?

9 A. Yeah, whenever she kissed me, yeah, she
10 bit on my lip, yeah.

11 Q. That was a benefit.

12 A. I guess, man. Yes, I guess.

13 Q. Is this humorous to you?

14 A. No, but that's, like, why would you even
15 ask me that if it's a benefit? Come on, man. It's
16 my wife. I kissed her. I was happy to do it. I
17 mean --

18 Q. And you started getting money on your
19 commissary account?

20 A. Yes.

21 Q. And your expectation leaving that meeting
22 was that you were going to get a significantly
23 reduced sentence.

24 A. Not expectations. Hopeful.

25 Q. Hopeful, but you talked to your wife about

1 the sentencing exposure you thought you were going
2 to have, didn't you?

3 A. Yes. And said yesterday I was comforting
4 her. I mean, I don't know exactly what I'm going to
5 get. I was trying to make it easy on her. I mean,
6 it's kind of hard to tell your wife what's going on.
7 She don't even know exactly what's going on with
8 this whole SNM thing. She don't understand it.

9 Q. But you told her you thought your sentence
10 would be down below five years.

11 A. I told her I was hopeful for anything,
12 honestly.

13 Q. No. You told her that if you recruited
14 other informants to help the Government and tell
15 them what they wanted to hear, that you would get
16 substantial reductions in your sentence.

17 A. Okay. Like I said, again, I'm hoping for
18 it. I was hoping for that. I still am hoping for
19 whatever sentence I get.

20 Q. But you didn't tell her you were hoping
21 for that. You said if you turned David Calbert, you
22 would get five years off your sentence?

23 A. I said -- I was mentioning -- again, I was
24 mentioning that assumption right there, myself, that
25 I was hoping that would happen. I was comforting my

1 wife, and that's what I told her.

2 Q. Did you use the word "hope" in that
3 conversation with your wife?

4 A. I didn't know I had to. But if I knew
5 this was going to happen, I would have said that,
6 yes.

7 Q. So when you met with the Government on May
8 6, you didn't think you were going to have to
9 testify in this case?

10 A. No, of course I knew I was going to
11 testify. I was ready to testify.

12 Q. Okay. So my question is: You expected a
13 sentence of less than five years based on your
14 conversation with the folks at this table.

15 A. No, man. I was hoping I could get
16 anything. I don't expect it. They made me clear
17 that there was no promises whatsoever when it came
18 to my time.

19 MR. LOWRY: Can you play Z-6?

20 Your Honor, I'm going to play for the jury
21 Z-6, Defendants' Z-6, which is a conversation
22 between Mr. Urquizo and his wife.

23 (Tape played.)

24 BY MR. LOWRY:

25 Q. So this Vato they were supposed to reel in

1 was David Calbert?

2 A. I don't know if I was talking about David
3 Calbert, but...

4 Q. Well, in an earlier call you talked about
5 David Calbert and Blue, landing them.

6 A. Right.

7 Q. And you wanted to land them because you
8 would get the benefit of a sentence reduction by
9 recruiting for the United States.

10 A. But I also said on the conversation they
11 would consider it.

12 Q. Right.

13 A. So I mean, of course, if I'm helping them,
14 I'm sure they were going to consider, see that I'm
15 trying to help and even get other SNM Gang members
16 to come this way and help out to take SNM down. So
17 of course, they're going to probably try to help me
18 out the best way they can.

19 Q. And your math, in that conversation --
20 your sentence was below five years.

21 A. Well, actually, like I told you, I had a
22 federal book, and it has the 5K, and actually,
23 that's where I got a lot of the information.
24 Because if you read through the federal book and it
25 talks about the 5K, and talks about if you help out,

1 they can reduce your sentence a lot, actually, if
2 you help out. And they recommend it. It's up to
3 the courts, of course, but that's how I got a lot of
4 my information about that.

5 Q. Sure. Let's talk about that 5K. Now, the
6 5K is, if the folks at this table think you're being
7 truthful, they can file a motion with this Court for
8 you to get a reduction in your sentence.

9 A. Correct.

10 Q. But only if they think you're truthful?

11 A. Correct.

12 Q. Now, you testified yesterday that you had
13 given up drugs -- or hold on for a second. I'll get
14 the exact quote. I believe you testified that, "I
15 tried to step away from drugs."

16 A. Right.

17 MR. LOWRY: May I approach, Your Honor?

18 THE COURT: You may.

19 MR. LOWRY: And Your Honor, I've marked
20 this for identification purposes as Exhibit EO.

21 BY MR. LOWRY:

22 Q. Mr. Urquizo, do you recognize that?

23 A. I just barely seen it the other day. They
24 had shown me for the first time.

25 Q. Is that something that was in your cell?

1 A. I was told that it was in my cell, but I
2 really don't know if it was or wasn't.

3 Q. You don't know if that was in your cell?

4 A. No. They had told me it came out of my
5 cell.

6 Q. The FBI says it came out of your cell.

7 A. The FBI -- the New Mexico Department of
8 Corrections told them that it came out of my cell.
9 That's how they made that it came out of my cell.

10 Q. So you're testifying to this jury that
11 that letter wasn't found in your cell?

12 A. I don't know if it was. I wasn't in my
13 cell when they found it or when they said they found
14 it, so I can't tell you yes or no about it.

15 Q. Have you ever read that letter?

16 A. Just a few days ago. I barely got a copy
17 just a few days ago.

18 Q. And that letter is discussing how to
19 smuggle drugs into the Department of Corrections?

20 A. Yes, I read it.

21 Q. When is the last time you used Suboxone?

22 A. A few years ago. It's been a few years.
23 I don't want to say the exact year, because you all
24 will attack me about the year. But it's been a few
25 years.

1 Q. So when your truthfulness is being
2 assessed whether that letter is yours or not, the
3 folks at this table are going to make that
4 assessment?

5 A. Right.

6 Q. You also testified yesterday on direct
7 examination about an assault of Greg Chacon in
8 December of 2016?

9 A. Correct.

10 Q. And you testified to this jury that that
11 assault was SNM business.

12 A. That was politics.

13 Q. Do you remember talking to your wife about
14 that assault being over the phone battery dying
15 before you got it?

16 A. I'm not going to get on the phone and tell
17 her it was over SNM. That would be the stupidest
18 thing ever.

19 Q. But you told her that it was about the
20 phone battery dying?

21 A. Yes, I did.

22 Q. Why talk about it at all?

23 A. Because I got locked down. I couldn't use
24 the phone. When I finally got to use the phone, I
25 told her what happened. I had somebody actually

1 call her and tell her that I got in a fight.

2 But STIU and everybody listens to our
3 phone calls. I wasn't going to say it was SNM
4 gang-related. That would be the craziest thing.

5 Q. So you fabricated a story for her?

6 A. No, not fabricated. I just didn't want to
7 tell her -- if I would have got a bid to where I
8 could tell her -- eventually I told her the truth.
9 But I couldn't tell her because on the phone they
10 record all that. That would be stupid for me to do
11 that. I would have got moved out of that pod as
12 soon as they heard that conversation.

13 Q. But I thought you said that's what you
14 wanted to do, is get out of the pod, get away from
15 it.

16 A. Yeah, but I also said that I was not going
17 to walk out like that. So whenever they approached
18 me, that was good.

19 Q. You also testified on direct yesterday
20 that you told your wife you're going to get from
21 between ten and fifteen years, hopefully.

22 A. Yeah. Somewhere around there.

23 Q. And we just heard the conversation you had
24 with your wife when you were talking about less than
25 five.

1 A. And I also said, too, that if I was
2 helping to try to get other people to come this way,
3 that maybe they could drop it even more. I believe
4 I said that, too.

5 Q. At the end of the day, it's the folks at
6 this table who decide whether you're being truthful
7 or not.

8 A. Yes, sir. And I'm being 100 percent
9 truthful.

10 MR. LOWRY: May I approach, Your Honor?

11 THE COURT: You may.

12 BY MR. LOWRY:

13 Q. Mr. Urquizo, do you recognize this
14 photograph?

15 A. Yeah. It looks like the layout of the New
16 Mexico Corrections Department.

17 Q. And what facility does that depict?

18 A. I don't know. It could be the North or
19 the South. They're almost exactly the same.

20 Q. So you can't tell the difference between
21 whether that's the North or the South facility?

22 A. I think it's the North.

23 MR. LOWRY: Your Honor, we've marked this
24 as EP, and move for its admission.

25 THE COURT: Any objection, Mr. Beck?

1 MR. BECK: No objection, Your Honor.

2 THE COURT: Anybody else have any
3 objection? Not hearing any, Defendants' Exhibit EP
4 will be admitted into evidence.

5 (Defendants' Exhibit EP admitted.)

6 Q. Mr. Urquizo, for the benefit of the jury,
7 we talked about all these facilities. But this is
8 the North facility at Santa Fe. Can you tell me
9 what unit this is?

10 A. I can't really notice from the top like
11 that.

12 Q. But there are three separate units.

13 A. Right. I'm looking for -- if I know where
14 the baseball field used to be at, then I would know
15 exactly where -- I can't really tell, honestly.
16 From the top like that, I can't tell.

17 Q. Okay. Well, do you recall the
18 recreational cage where you claim that this
19 conversation happened with Mr. Baca?

20 A. Which conversation? The first
21 conversation or second one?

22 Q. Either one.

23 A. The first one, yeah, we were right next to
24 each other, cage 1, cage 2. He was in 1, I was in
25 2.

1 Q. Show me the cages on there, on the map.

2 A. I just told you, I don't know which one --
3 I can't really -- I don't know which ones it is. I
4 can't tell from the top like that. You'd have to
5 show me, like, the cages directly. I can't tell you
6 right there. I really can't.

7 Q. Okay. So how many years did you live in
8 this facility?

9 A. Like 14. But I never really seen it from
10 the top like that, so...

11 Q. Okay.

12 MR. LOWRY: May I approach, Your Honor?

13 THE COURT: You may.

14 MR. LOWRY: Your Honor, Mr. Beck said he'd
15 stipulate to the admission of EQ, and I'd move for
16 the admission of EP and EQ.

17 A. Actually, now I could see them. There is
18 a track in the middle, so that's -- where the
19 track -- where it's open, that's a basketball court
20 right there. And that's where it is, right there.

21 THE COURT: All right. EP has already
22 been admitted, and EQ. Any objection, Ms. Jacks?

23 MS. JACKS: No.

24 THE COURT: Not hearing any objections
25 from any of the other defendants, it's all right

1 with you, Mr. Beck?

2 MR. BECK: Yes, Your Honor. No objection.

3 THE COURT: Then Defendants' Exhibit EQ
4 will be admitted into evidence.

5 (Defendants' Exhibit EQ admitted.)

6 BY MR. LOWRY:

7 Q. Mr. Urquizo, you can touch that screen and
8 point out the track, so everybody understands.

9 A. It's kind of hard to reach, but I believe
10 it's the one with the -- looks like it's kind of red
11 cages. From the top, it looks like it's red.
12 Honestly, I can't really tell. Yeah, I think it's
13 better if I get something like maybe where the cages
14 are when you first walk in. It's kind of hard for
15 me to really tell. I don't want to start pointing
16 out things that I'm not too sure about.

17 Q. Sure. And I don't want you to speculate,
18 either. But it's your testimony that you lived in
19 this facility for 14 years and you don't know which
20 is housing unit 1, housing unit 2, or housing unit
21 3?

22 A. I know the housing units, but I haven't
23 seen it like that from the top, so it's kind of
24 confusing. If you show me, like, from the sides --
25 I know housing unit 1-A and 1-B are together and,

1 2-A and 2-B, and then 3-A and 3-B. Now, if you
2 point out which housing unit it is, I can tell you
3 exactly. But I can't look at the top and, oh, it's
4 that one and that one. I can't do that.

5 Q. So you testified to this jury that there
6 was a point in time where you were in an exercise
7 cage and you could see Mr. Baca on the inside of the
8 facility.

9 A. Yes, Q pod is -- from the first cage, Q
10 pod is from, like, here to where the second juror is
11 sitting. It's not that far.

12 Q. So can you show me Q pod on this diagram?

13 A. No, I can't. That's the problem. I don't
14 know exactly what we're looking at.

15 Q. Well, you're looking at the North facility
16 for the Penitentiary of New Mexico in Santa Fe.

17 A. Yeah, but I don't know exactly where
18 the -- which -- what I'm trying to get at is, I
19 don't know which unit is which one. If I knew
20 exactly which unit, then I can point it out to you.

21 Q. Okay. Mr. Urquizo, this is Exhibit EQ.
22 If I represent to you that this is housing unit 3 --

23 A. Okay. And now we see those cages right
24 there on the side, and there is the building right
25 there on the side?

1 Q. Okay. And again, point out to us, so we
2 all have the same understanding --

3 A. Yeah, that's --

4 Q. Okay.

5 A. There is a row of cages on the very top.
6 I can't really touch the screen, but that row right
7 there on the very top.

8 Q. Are you talking about this?

9 A. Yes. Those are the cages, and there is a
10 little walkway, and then right across the walkway is
11 exactly where all of the cell windows are to Q pod
12 and R pod.

13 Q. Okay. Now, I'm going to bring you a copy
14 of this Exhibit EQ and ask you to mark where the Q
15 pod and the R pod are.

16 A. Okay.

17 MR. LOWRY: May I approach, Your Honor?

18 THE COURT: You may.

19 A. Which do you want me to mark?

20 BY MR. LOWRY:

21 Q. Where is the Q pod?

22 A. Q pod is right here, and R pod is right
23 here.

24 Q. Okay. Will you mark it down on the right
25 so we can see it later?

1 A. Q pod and R pod.

2 Q. Do you want to initial that right over
3 here?

4 A. (Witness complies.)

5 Q. And it was your testimony that on your
6 last day that you were at the North facility, you
7 saw Mr. Baca as you were out in the rec yard and he
8 was in Q pod?

9 A. Correct.

10 Q. And then you were transferred to the South
11 facility in Santa Fe?

12 A. Yes.

13 Q. And after that, you were transferred to
14 the Southern facility here in Las Cruces?

15 A. Yes.

16 Q. Now, I want to finish talking about the
17 final benefits. You said on direct that you were
18 given only two to three hundred dollars?

19 A. I think so. Somewhere around there.

20 Q. Okay. Would it surprise you to learn that
21 you got about twice that much, a little over \$650?

22 A. I'm not too sure how much I got, honestly.

23 Q. You weren't tracking it?

24 A. No, I wasn't really tracking it. I mean,
25 I just had it on my books.

1 Q. But the big benefit that you're going to
2 get for your testimony is to run your state sentence
3 concurrent with your federal sentence, isn't it?

4 A. Hopefully.

5 Q. Well, that's built into your plea
6 agreement, isn't it?

7 A. Yes.

8 Q. And so part of that is, you get to run all
9 of your time at the same time.

10 A. That's what we're hoping, yes.

11 Q. Well, you're not hoping for that; you
12 built it into your plea agreement.

13 A. Yeah, I built it into my plea agreement.
14 But at the end of the day, it's still going to be up
15 to the Courts if I get that or not.

16 MR. LOWRY: May I have a moment, Your
17 Honor?

18 THE COURT: You may.

19 BY MR. LOWRY:

20 Q. Mr. Urquizo, do you have any sense of how
21 much time you have left on your state charges?

22 A. I was thinking nine to twelve years, but I
23 was told maybe even more than that. Maybe, I don't
24 know, 15, 16, 17.

25 Q. So you have a substantial amount of state

1 time still pending?

2 A. Correct.

3 Q. And so if you get this sentencing
4 reduction you're anticipating to get off of your
5 20-year sentence, you could get out of this without
6 serving an additional day in prison; correct?

7 A. What do you mean?

8 Q. Well, if your federal sentence is equal to
9 or less than your state sentence, you can get out
10 without doing any additional time; right?

11 A. Besides the federal time that I got to do,
12 that's what I'm hoping for, yes.

13 Q. Your federal time is going to run at the
14 same time as your state time.

15 A. That's -- yes.

16 MR. LOWRY: No further questions, Your
17 Honor.

18 THE COURT: Thank you, Mr. Lowry.

19 Any other defendants? Ms. Bhalla?

20 CROSS-EXAMINATION

21 BY MS. BHALLA:

22 Q. Good morning, Mr. Urquizo.

23 A. Good morning.

24 Q. If I understand your testimony correctly,
25 you first began cooperating or first sat down with

1 the Government in February of 2017; is that correct?

2 A. Correct, ma'am.

3 Q. You might have to speak up a little bit.

4 I'm sorry.

5 A. Yes, ma'am.

6 Q. And in that initial meeting, Special Agent
7 Acee was there, yes?

8 A. Yes.

9 Q. And you indicated to him that you wanted
10 to protect yourself from prosecution, yes?

11 A. Correct.

12 Q. And Agent Acee told you that he understood
13 that, and he would get you a lawyer; is that
14 correct?

15 A. Yes.

16 Q. And he did that. The federal government
17 got you a lawyer, didn't they?

18 A. Yes, he did.

19 Q. And after you got a lawyer, you went back
20 and you met with them again in March of 2017; is
21 that correct?

22 A. Correct.

23 Q. Okay. And at that time they gave you a
24 Kastigar letter; is that correct?

25 A. Correct.

1 Q. And the Kastigar letter means it's going
2 to protect you from prosecution for what you say to
3 them; correct?

4 A. Correct.

5 Q. Okay. The complaint in this matter
6 charging you was filed on August 31 of 2017; is that
7 correct?

8 A. Yes.

9 Q. Okay. Have you had a chance to look at
10 that complaint?

11 A. Yes, I have.

12 Q. Okay. And you're aware that you were
13 alleged to have been involved in 39 overt acts; is
14 that correct?

15 A. Yes.

16 Q. Okay. And you entered a plea in this
17 matter in January of this year; is that correct?

18 A. Yes, I did.

19 Q. And you didn't plead guilty to any of
20 those 39 overt acts, did you?

21 A. I pleaded guilty to everything that was on
22 there.

23 Q. There was one count of RICO conspiracy
24 that you pled guilty to; isn't that correct?

25 A. But it was the one thing --

1 Q. It's a yes-or-no question.

2 A. I don't really understand this, so --

3 Q. Would you like me to show you a copy of
4 the plea agreement?

5 A. I know the plea agreement.

6 Q. So the question is yes or no. Did you
7 plead guilty to one count of a RICO conspiracy? Yes
8 or no?

9 A. I did, yes, I guess.

10 Q. Okay, thank you.

11 In August of 2017, you met with Special
12 Agent Acee and you talked about this case; is that
13 correct?

14 A. Correct.

15 Q. And you talked a little bit about the --
16 is it the Sosoya or the Sosa hit? I get them
17 confused.

18 A. Sosoya hit.

19 Q. And you told Agent Acee that a lot of that
20 had to do with Mario Rodriguez stirring the pot; is
21 that correct?

22 A. No. Afterwards, I mean, because it was
23 something that had happened a long time ago with
24 Robert Martinez and Carlos Herrera.

25 Q. Let me take you to that 302. Okay. So

1 this meeting took place on August 22 of 2017;
2 correct?

3 A. Correct.

4 Q. And you talked about the Sosoya hit;
5 correct?

6 A. Right.

7 Q. And you stated -- and tell me yes or no,
8 if this is right or wrong -- "Martinez did not want
9 to look like a punk so he and Blue, Mario Rodriguez,
10 hit Alex Sosoya. Mario Rodriguez was the one
11 stirring the pot and instigating the fight."

12 Did you say that? Yes or no?

13 A. I never denied it. I just didn't deny it
14 earlier. I just went back to how it all started.

15 Q. Did you say that? Yes or no?

16 A. Yes.

17 Q. Okay. And you also told Special Agent
18 Acee, "Mario wanted to be a leader, but his prior
19 charges won't let that happen." Did you say that?

20 A. Right.

21 Q. What do you know about Mario Rodriguez's
22 prior charges?

23 A. He picked up a sexual crime when he was in
24 the county jail.

25 Q. Okay. And then you stated to Mr. Acee --

1 and you tell me if you said this or tell me if you
2 didn't say it -- "All the guys started questioning
3 Rodriguez, and his motivation for sexually
4 assaulting Holguin. Urquizo" -- I'm sorry. That's
5 the end. Did you say that?

6 A. Yes.

7 Q. Okay. Did you also tell him that the
8 Holguin assault was not gang-related and was very
9 strange?

10 A. Yes.

11 Q. Okay. What did Mario Rodriguez do in that
12 assault, do you know?

13 A. To Holguin?

14 Q. Yes.

15 A. He put -- him and other individuals put a
16 hot sauce inside of Holguin's ass, I guess you could
17 say.

18 Q. Why did they do that?

19 A. Because it was believed he was a child
20 molester.

21 Q. But you testified that Mario Rodriguez
22 also had sex offenses in the past; is that correct?
23 Yes or no?

24 A. No, that's not what I said. I said county
25 jail. I'm talking about that right there.

1 Q. No, I know you're talking about Mr.
2 Sosoya. I'm asking you if Mario Rodriguez had prior
3 sex offenses. Yes or no?

4 A. No. No. That's not what I said.

5 Q. Is it correct, then, that you said that he
6 wasn't going to be a leader because people suspected
7 he had prior sex charges?

8 A. He got sex charges for doing that to
9 Holguin. That's what I'm saying.

10 Q. Okay. You testified on --

11 MR. VILLA: Judge, I need some help.

12 THE COURT: Ladies and gentlemen, why
13 don't we take a break for this morning?

14 (The jury left the courtroom.)

15 MR. VILLA: Your Honor, it appeared Mr.
16 Perez is having a seizure. So I think he needs to
17 be examined by a health care provider of some sort.
18 He was having a serious cough, and then appeared to
19 be seizing to me and to the Marshal Service.

20 MS. DUNCAN: Me, as well, Your Honor. I
21 just want to say I saw the same thing, Your Honor.
22 He seemed to seize, and his head fell back and was
23 not responsive to his counsel.

24 MS. JACKS: We saw it, as well, from
25 behind him, Team Sanchez.

1 MR. VILLA: As you recall some of the
2 testimony from Dr. Brislen, he does have a seizure
3 disorder. And we've been having trouble getting him
4 to see a neurologist. His medications are very
5 sensitive and need adjustment. But it appears to
6 have been brought on by the coughing attack.

7 THE COURT: Well, why don't y'all look at
8 him, the marshals, and tell me what his situation
9 is. We'll be in recess for about 15 minutes.

10 (The Court stood in recess.)

11 MS. FOX-YOUNG: Your Honor, I don't know
12 if you're going to want to hear from Mick first, but
13 we want to make a record.

14 THE COURT: I think we need the lawyers
15 and defendants here.

16 MS. FOX-YOUNG: I know. I just want to
17 let the Court know we need a minute.

18 THE COURT: All right. We'll go on the
19 record. Let me hear first from the Marshal Service
20 about what they've discovered during the break.

21 MR. MICKENDROW: Good morning, Your Honor.
22 Deputy Mickendrow. I spoke with Mr. Perez and
23 discussed his past seizure activity. The Marshal
24 Service is well aware of it. In fact, that's one of
25 the reasons that we brought him to Dona Ana

1 Detention Center, is that facility is able to
2 provide the best medical care for him.

3 The Marshal Service is waiting to get Mr.
4 Perez in to a neurologist. The issue with that is
5 that any neurologist that we have contacted within
6 the Albuquerque, Las Cruces, and El Paso area is
7 booked out quite a distance into the future. We're
8 looking at November of 2018 before we could get him
9 his first appointment at this point.

10 We are reaching out to our headquarters to
11 inquire about expanding the search criteria to areas
12 such as Lubbock and Arizona to provide us with maybe
13 a greater pool of neurologists to seek from.

14 Mr. Perez stated to me that he does
15 typically have seizures, and that they happen for a
16 few seconds, and that sometimes afterwards he'll
17 feel dizzy or faint, and that on about half of the
18 seizures he will pass out for them. I asked him if
19 he notified the facility of that. He stated he did
20 not, and that I asked him from here on out to make
21 sure that he notifies the facility whenever he has a
22 seizure, so that we can start documenting that. In
23 addition, I'll reach out to the facility later on
24 today and let them know that that's something that
25 we want to occur.

1 In this case, his blood pressure came back
2 fairly normal, considering that he's in a seated
3 position and resting after that; and his sugar
4 levels came back normal. When I spoke with the
5 medics, they stated that it probably was not a
6 seizure, but they could not confirm that without
7 having blood work done. I don't know what further
8 effort having blood work would provide us except
9 knowing whether it was or was not a seizure. Rudy
10 did say he felt better at this point. I did show
11 him the proper way of utilizing his nebulizer. The
12 only reason I know is because I have experience with
13 asthma issues myself.

14 I believe that's about it, Your Honor.

15 THE COURT: The firemen and paramedics are
16 still here. Is there anything that the firemen or
17 paramedics would want to add to your examination of
18 Mr. Perez?

19 MR. ECKHART: Your Honor, I apologize for
20 not knowing the procedures on this.

21 THE COURT: Just go ahead and identify
22 yourself. Looks like Mr. Eckhart?

23 MR. ECKHART: Yes, sir. Daniel Eckhart,
24 paramedic with the Las Cruces Fire Department. With
25 our limited knowledge of the gentleman and what the

1 statement said, we believe it was probably more a
2 sequelae episode from the coughing fit. Like I
3 said, we cannot confirm that it was not a seizure
4 without the blood work, and the blood work just
5 shows the medicine or the medication that he takes
6 are at the prescribed levels. They did explain that
7 he was changing his seizure medication, which you
8 could also have overlapping issues with.

9 THE COURT: All right. Anything else, Mr.
10 Eckhart?

11 MR. ECKHART: Not that I'm aware of.

12 THE COURT: Thank you. I appreciate you
13 coming over.

14 Deputy, I understood that sometimes he has
15 three or four of these a day, and on a fairly
16 regular basis. Am I getting an accurate picture?

17 MR. MICKENDROW: From what I discussed
18 with Mr. Perez, it varies. In fact, he stated to
19 the paramedics that he hasn't had a seizure in quite
20 some time now, but I know when we were tracking him
21 prior -- and I'm just looking over to Mr. Perez to
22 confirm this or not -- that he was at times having
23 three or four a day, depending on what was going on,
24 but that they were intermittent, in that he could go
25 some weeks where he'd only have maybe two or three a

1 week, and then all of a sudden one day he'd have
2 several in one day.

3 THE COURT: All right. Thank you, Deputy.
4 Ms. Fox-Young.

5 MS. FOX-YOUNG: Thank you, Your Honor. As
6 the Court may have observed before the break, Mr.
7 Perez had a spasming coughing attack, as he's been
8 having throughout the course of the last two days.
9 We don't know whether he seized or not, but as the
10 Court knows, he does have a history of seizures, and
11 very serious ones.

12 I just incorporate the testimony from Dr.
13 Brislen from our suppression hearing in December.
14 He had an eight-day seizure that was actually a
15 result of a change in medication or correlated with
16 a change in medication.

17 He has not seen a neurologist in years. I
18 personally and Mr. Villa have had conversations with
19 Mr. Joe Castro about getting him to see a
20 neurologist. It is not as if this is not a
21 complaint that has been made. That's not the issue
22 before the Court. But Mr. Perez' neurological
23 condition is a problem, and he really needs to see a
24 neurologist. I think he needs to be seen at the
25 hospital to see a neurologist if he cannot see

1 somebody until November of this year. It's an
2 emergent condition.

3 I'll tell the Court it's my perception
4 that Mr. Perez is quite out of it. He has been
5 today and he was yesterday. He's not tracking
6 what's going on, particularly after the episode that
7 happened right before the break. We came back, the
8 Court can see his eyes are slits, barely open. He
9 has been falling asleep. We've been losing him.
10 He's not aware of what's going on in this trial the
11 last two days and is not able to assist us in any
12 substantive way in terms of assisting in his own
13 trial.

14 As the Court knows, Mr. Perez has a due
15 process right not to be tried while he's
16 incompetent. That's the Pate case, 383 U.S. at 377.
17 He has been spacing out. Dr. Brislen's testimony
18 from the suppression hearing talked about
19 subclinical events and spacing out can signify that
20 a person is having seizures.

21 I can tell the Court that it appears Mr.
22 Perez has not yet had the antibiotics that were
23 ordered yesterday. He is fighting a serious
24 infection. I won't go through the litany of other
25 underlying conditions that he has, but he is very

1 vulnerable and frail and at risk of having a serious
2 medical event. I think that's what we're seeing
3 happen as he starts to decompensate.

4 I'm also very concerned that his seizure
5 medications may be below a therapeutic level and the
6 only way to determine that is to do blood work.

7 That may be why he's seizing. The paramedics told
8 us that to figure out if he's having a seizure, the
9 best thing to do is take him to the hospital, get
10 blood work. They looked at him for a few seconds.
11 They can't rule that out or say what's going on.

12 I don't know what his oxygen levels are,
13 but he really is in bad shape, and I think the Watts
14 versus Singletary case explains the defense counsel
15 is in the best position to determine whether a
16 client is competent and is tracking and is engaged
17 in the trial against them.

18 And I'm very concerned that he's not
19 competent. I would tell the Court that we have not
20 been able to have any productive conversations with
21 him about what's gone on in the trial for the last
22 two days. And I think it's inhumane to have him sit
23 here in a chair, shackled. He's just not doing
24 well. And as the Court knows, he's been wearing a
25 mask. He's been coughing heavily. He's trying not

1 to get anybody else in the room sick. He's in very
2 bad shape.

3 And for all those reasons, Your Honor -- I
4 mean he's here because you've ordered him to be here
5 I think if he's going to continue, he may need to
6 lie down. You know, I don't know. I can't tell the
7 Court what's going to happen the rest of the day.
8 But on these grounds, we move for a mistrial. If
9 the Court wants to continue and have Mr. Perez sit,
10 he's probably going to need some additional
11 accommodations. Thank you, Your Honor.

12 THE COURT: All right. Well, the motion
13 for a mistrial is denied. I've been watching Mr.
14 Perez. He came in this morning and was his old
15 self. He was complaining about his cane. He's
16 closest to me in this courtroom of any of the other
17 defendants. And you know, he's been coughing; there
18 is no doubt about that. But he's I think not
19 feeling well. But he seems to be involved in the
20 trial, and I haven't noticed him being in and out as
21 much as defense counsel is suggesting.

22 So we'll monitor him. We'll see how he
23 goes. He's had to fight these epileptic seizures
24 for a long time, and we're having to deal with them
25 during his trial. But I think we'll see how it

1 goes. And if we can't do it, we can't do it. But
2 right at the moment, I think we'll see if we can
3 manage it.

4 Deputy?

5 MR. MICKENDROW: Your Honor, I apologize.
6 But just given some of the comments made by Ms.
7 Fox-Young, I wanted to -- and the fact that they're
8 a part of the record now, I wanted to clarify a few
9 things.

10 In regard to the neurologist, Ms.
11 Fox-Young stated that Mr. Perez' condition is
12 emergent. At this point, it is not emergent. It's
13 considered routine. And that is an evaluation that
14 is made by medical personnel. That's not made by
15 the Marshal Service. It's made by the doctors that
16 we sentenced Mr. Perez to to make those evaluations.

17 In addition, if we were to send Mr. Perez
18 to the hospital, there is no neurologist on staff at
19 a hospital. They would still have to be called in,
20 and it would have to be considered an emergency
21 procedure at that point. Given that we had just
22 brought Mr. Perez to the hospital yesterday, I don't
23 believe that condition would change today.

24 In addition, I would caution -- I would
25 caution, in general, the Court, but also Mr. Perez'

1 counsel from providing medical guidance, because we
2 just spoke with the EMTs, and they said that having
3 Mr. Perez lay down may actually worsen the condition
4 that he's in. And therefore, that's why the Marshal
5 Service is very cautious about the medical steps
6 that we take when it comes to the people in our
7 care.

8 And one final note would be that the
9 antibiotics provided to Mr. Perez yesterday were
10 precautionary. They were not because of any
11 specific test or any specific result, but they were
12 in an effort to make sure that whatever Mr. Perez
13 has doesn't go any further.

14 THE COURT: All right. They weren't able
15 to give any sort of diagnosis; correct?

16 MR. MICKENDROW: They were not, except for
17 the fact that the chest x-ray did not look good to
18 them.

19 THE COURT: All right. All right. Well,
20 let's see how it goes. We'll monitor it. Let me
21 thank the firemen and the paramedics for coming
22 over. I appreciate it. I appreciate your counsel
23 on this and your input. I appreciate it. We'll
24 continue to watch Mr. Perez, and see how it goes.
25 Y'all have good day. Thank you. I appreciate it.

1 (The jury entered the courtroom.)

2 THE COURT: All right. Everyone be
3 seated.

4 All right. Mr. Urquizo, I remind you that
5 you're still under oath.

6 Ms. Bhalla, if you wish to continue your
7 cross-examination of Mr. Urquizo, you may do so.

8 MS. BHALLA: Thank you, Your Honor.

9 BY MS. BHALLA:

10 Q. Mr. Urquizo, after you spoke with Agent
11 Acee in February of 2017, you were moved to another
12 location; is that correct?

13 A. Yes, ma'am.

14 Q. Where were you moved?

15 A. The North facility.

16 Q. Who else was there with you in the housing
17 unit?

18 A. At that time?

19 Q. Yes.

20 A. Just me.

21 Q. There was no one else in your housing
22 unit?

23 A. No other individuals but me from SNM.

24 Q. Do you know any other individuals who were
25 housed in that unit with you?

1 A. I believe Clark was in there.

2 Q. Benjamin Clark?

3 A. No, not Benjamin Clark. His uncle. I
4 forgot. He's an older dude. He was in there.
5 Actually, next door there was Javier Rubio.

6 Q. So BB was there next door?

7 A. Yes, next door.

8 Q. Who else?

9 A. Billy Cordova.

10 Q. Billy Cordova. Who else?

11 A. And I think that's all I knew.

12 Q. And at some point you were moved to the N
13 pod; is that correct?

14 A. Where?

15 Q. N? Like N as in Nancy?

16 A. No. Actually, I stayed there. I was in W
17 pod. I was moved to 3-B W pod, and I stayed there
18 for about, I want to say, a good six months.

19 Q. Who was in there with you then?

20 A. Clark, the one I was telling you. I
21 forgot his first name.

22 Q. That's okay. You can go to the next one.

23 A. It was just me and him, really. We were
24 the only ones that were SNM or past SNM, ex-gang
25 members.

1 Q. At some point were you housed with other
2 cooperators in this case aside from Javier Rubio and
3 Billy Cordova?

4 A. Later on I was moved to X pod.

5 Q. X pod. And who was in the X pod?

6 A. It was myself, Javier Rubio, Billy
7 Cordova, and eventually they ended up bringing Fred
8 Quintana and Robert Martinez.

9 Q. Robert Martinez?

10 A. Yes.

11 Q. Were you ever given a tablet in this case?

12 A. Nope.

13 Q. I want to show you what's been marked EO.

14 MS. BHALLA: And I'll submit to the Court,
15 Your Honor, this is a stipulated exhibit.

16 THE COURT: All right. Any objection to
17 it?

18 MR. BECK: Yeah, we don't object to its
19 admissibility.

20 THE COURT: Anybody else? Not hearing any
21 objection, Defendants' EO will be admitted into
22 evidence.

23 (Defendants' Exhibit EO admitted.)

24 MS. BHALLA: Your Honor, may I approach?

25 THE COURT: You may.

1 BY MS. BHALLA:

2 Q. Can you see it on your screen?

3 A. Yes, I've seen it.

4 Q. Mr. Urquizo, I'm going to submit to you
5 that this is a stipulated exhibit and that the
6 Government stipulates that this letter was found in
7 your cell. Is that your handwriting?

8 A. No. I've got pretty fancy handwriting.
9 That's the only way I know how to write.

10 Q. Would you agree with me that this letter
11 details ways for inmates to smuggle Suboxone into
12 the jail? Again, it's a yes-or-no question.

13 A. Yes. Again, I read it, so yes, it does.

14 Q. Thank you. And that was found in your
15 cell in January of 2018; correct?

16 A. That's what I was told, yes.

17 Q. Okay. Mr. Lowry asked you -- and I
18 believe the Government also asked you part of what
19 motivated you to cooperate in this case. And if I
20 recall, your testimony was that you'd been thinking
21 about it for a while, and you were ready to move on,
22 and you were tired of the back-stabbing. Is that
23 fair to say?

24 A. Yeah.

25 Q. And you were also asked whether or not you

1 had been recorded by another cooperator in this
2 case. Do you recall that question?

3 A. Yes.

4 Q. Okay. Do you recall that your answer to
5 that question was no?

6 A. Yes.

7 MS. BHALLA: Could you please,
8 Ms. Gilbert, get ready for Exhibit Z-8?

9 I'd like to go ahead and play that
10 exhibit, Your Honor.

11 Q. You know what? Actually, before we start,
12 let me ask you a couple of questions before we
13 start. You speak Spanish; correct?

14 A. Yes.

15 Q. And we've heard you speaking Spanish;
16 correct?

17 A. Yes.

18 Q. The word for "alambre" in Spanish is wire;
19 is that correct?

20 A. Correct.

21 Q. And "palitos" means sticks; correct?

22 A. Correct.

23 Q. And Gerald Archuleta is a cooperator in
24 this case; correct?

25 A. Correct.

1 Q. And his moniker is Styx; is that correct?

2 A. Yes.

3 MS. BHALLA: Okay. Let's go ahead and
4 play Z-8 now, please.

5 (Tape played.)

6 Q. Is it still your testimony that you
7 weren't recorded?

8 A. Yes, I wasn't talking about myself. I
9 never said "me." When I said I read those papeles,
10 I'm talking about papeles that we had. We had
11 papeles where Styx was actually wired recording
12 people.

13 Q. So it's your testimony that you weren't
14 recorded; right?

15 A. No, I wasn't recorded.

16 Q. But it is your testimony that Styx made
17 recordings; right?

18 A. Yes, he did.

19 Q. And clearly, you were implicated on those
20 recordings; right?

21 A. Hum, no.

22 Q. No? It's your testimony that you weren't
23 implicated on those recordings?

24 A. Implicated? Like, I don't understand the
25 question.

1 Q. Well, the federal government came to talk
2 to you; right?

3 A. Right.

4 Q. Okay. And they told you they had you,
5 didn't they?

6 A. Yes.

7 Q. And they had you because they showed you
8 the transcripts of the recordings; is that right?

9 A. No, I seen the transcripts in L pod. It
10 was in my pod.

11 Q. Oh. So you saw other people's discovery.

12 A. Yeah, I said that earlier, the RICO
13 indictment.

14 Q. And when you saw -- okay. That's fine.
15 When you saw those recordings or the transcripts of
16 those recordings, you were implicated.

17 A. Actually, I don't understand -- I still
18 don't understand the question, honestly.

19 Q. Do you know what the word "implicated"
20 means?

21 A. No, I guess I don't.

22 Q. "Implicated" means you were shown to be
23 involved.

24 A. Actually, on that paperwork, I wasn't, no.

25 Q. So the paperwork that you read did not

1 implicate you, and that prompted you to cooperate
2 with the federal government? Is that what you're
3 saying?

4 A. No, it was afterwards when he came and
5 talked to me that I decided I want to talk to them.

6 Q. That phone call was in March of 2017. Do
7 you recall that?

8 A. Yes, I do.

9 Q. We took a brief break while the jury was
10 out. Is your lawyer in the courtroom today, the one
11 that the federal government got you?

12 A. Yes.

13 Q. I'm not going to ask you what you talked
14 to her about, but you talked to her during the
15 break, didn't you?

16 A. When?

17 Q. During the break, when the jury was out,
18 and we were all sitting in the courtroom.

19 A. Yes, ma'am.

20 MS. BHALLA: Can I have just a moment,
21 Your Honor?

22 THE COURT: You may.

23 MS. BHALLA: Your Honor, I'll pass the
24 witness. Thank you.

25 THE COURT: Thank you, Ms. Bhalla.

1 Mr. Villa, do you wish to cross-examine
2 Mr. Urquizo?

3 MR. VILLA: Yes, Your Honor.

4 THE COURT: Mr. Villa.

5 MR. VILLA: Thank you, Your Honor.

6 THE COURT: Mr. Villa.

7 CROSS-EXAMINATION

8 BY MR. VILLA:

9 Q. It's still morning. Good morning, Mr.
10 Urquizo.

11 A. Good morning, sir.

12 Q. So it's your testimony that Mr. Perez told
13 you that he provided pieces for the shank to kill
14 Javier Molina?

15 A. Yes, sir.

16 Q. You said that happened on a transport van;
17 right?

18 A. Yes, sir.

19 Q. A transport van to where?

20 A. From Las Cruces to Santa Fe. We were both
21 transferred from Las Cruces to Santa Fe.

22 Q. When was that?

23 A. In 2015.

24 Q. 2015?

25 A. Yes.

1 Q. What month?

2 A. I'm not exactly too sure what month. But
3 it was, I want to say, in the middle of 2015
4 somewhere. I'm not too sure.

5 Q. So if it was June 2015, that would sound
6 about right?

7 A. Possibility.

8 Q. So let me talk to you about that. So when
9 you go from one prison to the next, you've got to
10 get transported in a van; correct?

11 A. Yes, sir.

12 Q. And you were on that van with Mr. Perez
13 and who else?

14 A. Just me and Mr. Perez.

15 Q. Just the two of you?

16 A. Two of us.

17 Q. And have you seen the document called an
18 offender location history or inmate location
19 history?

20 A. Have I seen it?

21 Q. Yeah.

22 A. No.

23 Q. So it's a document that shows where
24 somebody who is in the prison system is; they go
25 from one place to the next, they get moved to

1 different places.

2 A. No, I haven't seen it. No.

3 Q. Let me show you what's already been
4 admitted as Defendants' V-24. And if we could go to
5 June 2015, Mr. Urquizo, this is the offender
6 physical location history for Rudy Perez. Do you
7 see that there at the top?

8 A. Yes, sir.

9 Q. And so I want to draw your attention to
10 June 17, 2015. We're going to highlight that for
11 you. Do you see that there?

12 A. Yes, sir.

13 Q. So that says "to PNM."

14 A. Right.

15 Q. And PNM is Penitentiary of New Mexico?

16 A. Yes, sir.

17 Q. And sometime in the middle of 2015 you
18 remember being on a transport van with Rudy Perez.

19 A. Yes, sir.

20 Q. Okay. So does it make sense that that
21 would have occurred on June 17, 2015?

22 A. Like it says there, yes.

23 Q. You don't have any reason to dispute that,
24 do you?

25 A. No.

1 Q. So you agree with me, Mr. Urquizo, that
2 that conversation you said you had took place -- I
3 guess it's a year and three months after the Javier
4 Molina murder?

5 A. Yeah, something like that, yeah.

6 Q. Javier Molina was killed March 7, 2014;
7 right?

8 A. Correct.

9 Q. And so it wasn't until June 2015 that you
10 had this conversation; right?

11 A. Yes.

12 Q. And when Mr. Perez told you that, in fact,
13 what happened on that transport van was that Mr.
14 Perez fell over; right?

15 A. Yes, sir.

16 Q. And he got stuck between the seats, didn't
17 he?

18 A. Yes, he did.

19 Q. Because he's disabled?

20 A. Yes.

21 Q. And you knew him to be disabled for many
22 years; right?

23 A. I didn't really know him very well. I
24 just kind of met him. I didn't know him too well,
25 actually.

1 Q. When did you meet him?

2 A. I had met him while I was there, the four
3 or five months I was there with him in Southern. I
4 didn't really know him before then.

5 Q. So when you were in Southern -- we know
6 you were there sometime before the Javier Molina
7 murder, according to your testimony -- did you meet
8 Mr. Perez then?

9 A. I was only there for one day when the
10 Javier Molina murder happened. It happened the next
11 day.

12 Q. Then you got moved out?

13 A. I went back to PNM and I appealed and went
14 back to Southern.

15 Q. So when you went back to Southern, that's
16 when you met Mr. Perez?

17 A. Yes.

18 Q. At the time you met him, he was locked
19 down in solitary like you were; right?

20 A. Yes, we were all locked down for that
21 murder, yes.

22 Q. Everybody got locked down?

23 A. Yes.

24 Q. And everybody in the SNM got locked down?

25 A. Yes.

1 Q. Whether they were guilty or involved in
2 the murder; right?

3 A. Yes. We were all locked down.

4 Q. Okay. You never talked to him the day
5 before the Javier Molina murder; right? You never
6 talked to Mr. Perez?

7 A. No.

8 Q. In fact, you hadn't met him?

9 A. No.

10 Q. Hadn't even heard about him?

11 A. I heard about him.

12 Q. You knew of him?

13 A. Yeah, I knew of him, but I didn't know
14 him.

15 Q. So still, June 2015, he's still disabled,
16 he still has difficulty walking, and somewhere along
17 the travel he falls between the seats, and they
18 actually have to stop the van and help him; right?

19 A. Correct.

20 Q. And get him back out?

21 A. Yes, sir.

22 Q. And that's kind of embarrassing, isn't it?

23 A. Yes.

24 Q. For Mr. Perez that's embarrassing, isn't
25 it?

1 A. Yeah. I helped him out.

2 Q. Okay. Good. And so while you're
3 having -- at some point, you're having this
4 conversation about Mr. Molina. I think you
5 characterized it in your direct testimony that he
6 was sort of bragging or proud; right?

7 A. Yes.

8 Q. He didn't tell you, did he, that before
9 the Molina murder, Mario Rodriguez came into his
10 room and took the piece from his walker.

11 A. No.

12 Q. And we talked a little bit about Mario
13 Rodriguez; at least, you've talked about him here a
14 couple of times. Let me show you a photograph,
15 Government's 586. Is that Mario Rodriguez?

16 A. Yes, sir.

17 Q. Also goes by Blue?

18 A. Yes, sir.

19 Q. And Mario Rodriguez -- he's got a
20 reputation in the SNM, doesn't he?

21 A. Yes, sir.

22 Q. He's pretty scary?

23 A. He can be, yes.

24 Q. Can be violent?

25 A. Yes.

1 Q. And I think it was your testimony that he
2 was -- he wanted to be a leader in the SNM; right?

3 A. Correct.

4 Q. He wanted to rise up the ranks, if you
5 will?

6 A. Yes.

7 Q. But he had trouble with that because he
8 had a sex offense conviction; right?

9 A. Correct.

10 Q. This issue that you talked about, he was
11 in the county jail and raped somebody with a bottle?

12 A. Hot sauce bottle.

13 Q. Hot sauce bottle? Like Tabasco hot sauce?

14 A. Yes, sir.

15 Q. So you all knew about that; right?

16 A. Yes.

17 Q. And had some concerns about whether he
18 could be a leader, because sex offenses are looked
19 upon differently, aren't they?

20 A. Correct.

21 Q. But Mario wanted to be a leader, no matter
22 what?

23 A. Yes.

24 Q. He wanted to rise up the ranks, didn't he?

25 A. Yes, he did.

1 Q. And along with some of the other younger
2 up-and-comers; right?

3 A. Yes, sir.

4 Q. And isn't it true that Mario Rodriguez was
5 sort of aligning himself with certain people in the
6 SNM?

7 A. Well, I mean, not aligning, but we kind of
8 were close friends. There were several of us that
9 were close friends.

10 Q. And Mario was one of them; right?

11 A. Yes, sir.

12 Q. And David Calbert?

13 A. Yes, sir.

14 Q. And who else?

15 A. Carlos Herrera. He was one of the close
16 friends.

17 Q. Okay. Mario Rodriguez and David Calbert
18 are both working with the Government now; right?

19 A. Correct.

20 Q. Just like you?

21 A. Right.

22 Q. And one of the things that you and Calbert
23 and Mario were breaking away from was Anthony Baca;
24 right?

25 A. We didn't like his politics. Not breaking

1 away. He was still the leader.

2 Q. Well, there were some disputes and
3 disagreements.

4 A. We just didn't like his politics, yeah.

5 Q. We'll get back to that. So when you and
6 Mr. Perez are having this conversation in the
7 transport van, he didn't say Mario came and took the
8 piece from his walker; right?

9 A. No.

10 Q. He didn't say that he was really scared
11 when that happened.

12 A. No.

13 Q. Mr. Perez didn't tell you that.

14 A. That he was scared?

15 Q. That he was scared.

16 A. No.

17 Q. He didn't tell you he was scared of being
18 next?

19 A. No.

20 Q. Because that would be weak of Mr. Perez to
21 say that to you, wouldn't it?

22 A. No. Nobody is going to mess with him. We
23 know that he's disabled. He pretty much gets a
24 pass.

25 Q. Well, you don't know what took place in

1 Mr. Perez' cell when Mario Rodriguez went in there,
2 do you?

3 A. No, I don't know.

4 Q. Okay. So you weren't there.

5 A. No, I wasn't. I wasn't.

6 Q. You were in yellow pod.

7 A. Yes, I was.

8 Q. And Mario Rodriguez and Rudy Perez were in
9 the blue pod?

10 A. Right.

11 Q. Do you know what cell Mario Rodriguez was
12 in?

13 A. No, I don't.

14 Q. So you don't know what transpired between
15 those two gentlemen when Mario Rodriguez came and
16 took that piece from Mr. Perez' walker, do you?

17 A. No, I don't.

18 Q. But if Mr. Perez said, "Gosh, I was really
19 scared, I was afraid for myself," that would be weak
20 of him?

21 A. It would, but I wouldn't believe him.

22 Q. You agreed with me that it would be weak?

23 A. It would be weak. Yes, it would.

24 Q. Now, you agree with me that -- I think you
25 testified that there was a phone call with your

1 brother that -- this came up in the
2 cross-examination about you're trying to protect
3 your brother, you're trying to make sure he doesn't
4 get prosecuted; right?

5 A. I remember the conversation, yes.

6 Q. You said that there was a phone call from
7 Mario Rodriguez and Jerry Montoya to your brother
8 asking about paper; right?

9 A. A huila, a letter, yes.

10 Q. Was that -- what huila was that?

11 A. Paperwork for Javier Molina and Jerry
12 Montoya.

13 Q. So Jerry Montoya is calling about his own
14 paperwork?

15 A. He didn't know it, but yes, he was.

16 Q. So Mario Rodriguez, who is working with
17 the Government, and Jerry Montoya, who is also
18 working with the Government -- you know that; right?

19 A. Right.

20 Q. -- call your brother and ask about
21 paperwork, ask him to ask you about the Javier
22 Molina paperwork.

23 A. No, he didn't say it like that. He told
24 him, "Tell your brother. Don't you forget. Don't
25 forget those letters."

1 And so my brother told me, "Don't forget
2 those letters. And we got ice cream and chicken,"
3 which I know what that meant, because we talked
4 about it before Mario Rodriguez went to Southern. I
5 was with him at the cell like about seven months
6 before he went to Southern, so we already knew the
7 paperwork was coming. We were just waiting for
8 whoever got it.

9 Q. So Mario involved your brother because he
10 wanted to get this paperwork down there, didn't he?

11 A. Yes, but my brother don't know it was
12 paperwork.

13 Q. But Mario did, because he wanted the
14 paperwork; right? Mario Rodriguez.

15 A. Yeah, he was getting it from Dan Dan.
16 Dan Dan had the call.

17 Q. No, no, I didn't ask you about that. The
18 phone call between your brother was between your
19 brother and Mario Rodriguez and Jerry Montoya;
20 right?

21 A. Yes.

22 Q. And that's what you know.

23 A. Yes.

24 Q. Mario was asking for the paperwork.

25 A. Yes.

1 Q. And when you got down to yellow pod the
2 day before Javier Molina got killed, it was Mario
3 Rodriguez that you spoke to; right?

4 A. Correct.

5 Q. Through the door.

6 A. Yes.

7 Q. He asked if you had that paperwork; right?

8 A. Yes.

9 Q. You all were passing letters to each other
10 about the paperwork; right?

11 A. Correct.

12 Q. And one of the things you wanted to do
13 when you got down there was take care of an issue
14 you had with Samuel Gonzalez; right?

15 A. Yes.

16 Q. Gumby?

17 A. Yes.

18 Q. You wanted to kill him.

19 A. Yes.

20 Q. Right?

21 A. Yes.

22 Q. But Mario said to you, "Look. We've got
23 to do this thing on Javier Molina. Sorry, we can't
24 wait till you get out" -- because you were locked
25 down for like a week; right?

1 A. Yes.

2 Q. "We can't wait till you get out. We've
3 got to do this thing on Molina. I'm sorry. We'll
4 deal with Samuel Gonzalez later"; right?

5 A. Yes, because if not, somebody would throw
6 a kite and Javier Molina would have got moved.
7 That's why it happened so fast.

8 Q. And it was Mario that told you they needed
9 to do that; right?

10 A. Orders of Daniel Sanchez. He wrote me a
11 letter telling me --

12 Q. I'm not asking you about anybody but Mario
13 Rodriguez. Mario passed you the letter that said,
14 "We're going to move on Javier Molina"; right?

15 A. Yes. Like he said, "we."

16 Q. And Mario said that "We've got to do it
17 now"?

18 A. Yes.

19 Q. And the paperwork that you said you
20 brought down, you gave to Mario Rodriguez; right?

21 A. I gave it to Carlos Herrera. Carlos
22 Herrera gave it to Mario Rodriguez.

23 Q. Okay. So I want to understand your
24 testimony that that gets -- the paperwork, the
25 letters, and things like that -- those go underneath

1 the doors; right?

2 A. Correct.

3 Q. And those doors -- let's see here. Let's
4 show you Defendants' E-8.

5 Technical difficulties.

6 While we're working on this, Mr. Urquizo,
7 let me ask you something. There is a door that
8 connects from the blue pod to the yellow pod on the
9 upper tier; right?

10 A. Right.

11 Q. And there is a door that connects from the
12 blue pod to the yellow pod in the lower tier; right?

13 A. Yes.

14 Q. And you were communicating with Mario
15 Rodriguez?

16 A. Bottom door.

17 Q. Through the bottom door.

18 A. Yes, sir.

19 Q. Did you ever communicate with him through
20 the top door?

21 A. No.

22 Q. All right. And when the paperwork, the
23 Javier Molina paperwork, that you say was passed
24 under the door -- was that passed under the top door
25 or the bottom door?

1 A. Bottom door. There is a gap. There's a
2 good two-inches gap under the door. You can pass
3 whatever. You can pass soup. A lot of stuff you
4 can pass underneath the door.

5 Q. Pass shanks?

6 A. Shanks, everything.

7 Q. There is a big enough gap for that?

8 A. Yes.

9 Q. Let me make sure I understand the history
10 of your cooperation, Mr. Urquizo. On February 24,
11 you met with Mr. Acee for the first time; right?

12 A. Yes, sir.

13 Q. And at that point in time you hadn't been
14 charged with anything related to the federal case;
15 right?

16 A. No.

17 Q. You heard about it?

18 A. Yes.

19 Q. You knew some rumors about it?

20 A. Yes.

21 Q. But you hadn't been charged?

22 A. No.

23 Q. And when you spoke to Agent Acee, you told
24 him that you knew about specific things related to
25 the Javier Molina homicide; right?

1 A. Correct.

2 Q. And by the way, this is February 24, 2017?

3 A. Um-hum.

4 Q. Yes, sir?

5 A. Yes.

6 Q. So after you had this conversation with
7 Rudy Perez in the transport van that you talked
8 about; right?

9 A. Yes.

10 Q. So on February 24, you told Mr. Acee, "I
11 know about seven different things related to the
12 Javier Molina homicide." Do you remember that?

13 A. More or less, yes.

14 Q. Well, it's not more or less. It's
15 actually seven.

16 A. Yes, I do.

17 Q. Okay. And none of those seven items
18 included any knowledge about where the shank or
19 shanks came from that were used on Javier Molina;
20 true?

21 A. No, actually, I did tell him about Rudy
22 Perez. I don't know if I told him -- actually, that
23 first day that I spoke to him, I spoke just about a
24 few little things, because I wanted to have a lawyer
25 with me just in case my lawyer told me not talk much

1 or whatever. So I gave him a brief statement so he
2 could see I was being honest. That's why it wasn't
3 everything that it is now, because he just asked for
4 a few questions.

5 Q. Okay. So did you or did you not tell
6 Agent Acee on February 24, 2017, that you possessed
7 direct knowledge about seven different things
8 related to the Javier Molina homicide?

9 A. I guess seven. I guess. Yes, I'm sure I
10 did.

11 Q. I don't want you to guess, sir. If I
12 showed you Mr. Acee's report, would that refresh
13 your recollection?

14 A. Well, yeah. I mean, I don't know. Like I
15 didn't count, okay, there's one, there's two,
16 there's three, there's four. I didn't do that.

17 Q. Let me ask you this. Do you agree that on
18 February 24, 2017, when you told him that you knew
19 things about the Molina homicide, you did not
20 mention anything at all about Rudy Perez?

21 A. Honestly, I don't remember. Maybe I did.

22 MR. VILLA: May I approach, Your Honor?

23 THE COURT: You may.

24 BY MR. VILLA:

25 Q. Mr. Urquizo, I'm going to show you a

1 report written by Agent Acee; right?

2 A. Yes.

3 Q. And it's dated February 24, 2017; right?

4 A. Yes.

5 Q. And he's talking about meeting with you?

6 A. Right.

7 Q. Right. And in here it says, "Urquizo said
8 he possessed direct knowledge about the following
9 information as it pertained to the Molina hit."

10 Did I read that right?

11 A. Yes.

12 Q. Now, how many points does he identify
13 there?

14 A. Seven.

15 Q. Seven?

16 A. Yes.

17 Q. Will you read all seven of those to
18 yourself, please?

19 A. Yes.

20 Q. You read them all?

21 A. Yes.

22 Q. It doesn't say anything about Rudy Perez,
23 does it?

24 A. No, but you did just hear my statement. I
25 also said that I did not want to speak too much

1 until I got a lawyer, and he agreed with that, and
2 he said, "I will provide you a lawyer and then we
3 can continue this."

4 Q. I'm sorry. Because I thought you said,
5 "Maybe I did tell him. Maybe I didn't. I don't
6 remember. Maybe I could get a lawyer."

7 But I want to make sure it's not in Mr.
8 Acee's report, anything about Rudy Perez on February
9 24.

10 A. On February 24, it was not. But right
11 after that, there is. A few days after that, there
12 is.

13 Q. Because you wanted to talk to a lawyer.

14 A. Yes, I needed to talk to a lawyer. I
15 wanted to make sure -- I've never talked to an FBI
16 agent.

17 Q. The lawyer they got you.

18 A. Yes.

19 Q. And then you had that phone call that we
20 heard with your sister, where you talked about
21 potentially facing life in prison or the death
22 penalty or 20 years; right?

23 A. Yes, sir.

24 Q. That was before you met with Agent Acee
25 again in March, wasn't it?

1 A. Yes, sir.

2 Q. And you had the phone call with your
3 brother where you said you were facing life and they
4 were going to charge you related to the Javier
5 Molina homicide; right?

6 A. Yes, sir.

7 Q. And then you went to meet with Agent Acee
8 on March 6; correct?

9 A. Correct.

10 Q. But you don't talk to Agent Acee on March
11 6 about Mr. Perez telling you this in the transport
12 van, did you?

13 A. I don't recall if it was March 6 or on the
14 next time that I talked to him. But I think I did
15 talk to him on March 6. I'm not too sure, though.

16 Q. Well, let me tell you this: You talked to
17 Agent Acee about the belief that the -- where the
18 shanks came from; that they came from -- that Mr.
19 Perez provided them. But you didn't tell him about
20 being on the transport van.

21 A. Yes, I told him that I spoke to Rudy Perez
22 about it. I told him that there's three shanks. I
23 knew there was three shanks, and one of them, I
24 believe, came from -- I did say I believe came from
25 Rudy Perez, because he talked to me about it in the

1 transport van.

2 Q. You told him about the transport van in
3 August; right?

4 A. It might have been August or March. I'm
5 not too sure when it was, but I did tell him about
6 it.

7 Q. I'm trying to understand if you told him
8 in March or if you told him in August, because
9 that's a difference.

10 A. The difference -- I can't remember if it
11 was March 6 or August. If you show me, then I'll
12 remember.

13 MR. VILLA: May I approach, Your Honor?

14 THE COURT: You may.

15 BY MR. VILLA:

16 Q. So Mr. Urquizo, I'm showing you a report
17 from Agent Acee; right?

18 A. Yes.

19 Q. March 6, 2017?

20 A. Okay.

21 Q. I'm going to jump over to page 5. And
22 what Agent Acee wrote in here is that "When
23 questioned about the origin of the shanks used in
24 the Molina hit, Urquizo said Rudy Perez had supplied
25 at least one shank, and the other one may have come

1 from the wheelchair program." Right?

2 A. So I did tell them on March. You just
3 said I didn't.

4 Q. I want to clarify. You told him that;
5 right?

6 A. Yes.

7 Q. Did you tell him about any conversation on
8 the transport van? You can read it to yourself.

9 A. It don't say -- later on, I guess I did.
10 But I did talk to him about the transfer van.

11 MS. JACKS: We're having trouble hearing.

12 A. Later on, I did talk to him about the
13 transport van. But I did tell him about Rudy Perez
14 providing the shank, though.

15 Q. And you didn't tell him that it was
16 actually Mario Rodriguez that came and took the
17 piece from Rudy's walker; right?

18 A. No, Mario Rodriguez never told me that.

19 Q. So you didn't know that?

20 A. No.

21 Q. You didn't tell him that Mr. Perez was
22 scared when that happened because you didn't know
23 that, either?

24 A. I didn't know that, either.

25 Q. But you did know, didn't you, that the

1 more information that you provided, the more people
2 that you helped get prosecuted, the better your
3 sentence would be?

4 A. Earlier they asked me a question, who was
5 I housed with. I was in W pod when this happened by
6 myself. There was another guy by the name of Clark,
7 Tomas Clark, and I really didn't speak to him. So
8 there was nobody I had spoken to about anything.
9 Nobody knew nothing whatsoever in that pod, what was
10 going on.

11 Q. Well, you agree with me that after August,
12 in September we heard the phone call. If you want,
13 we can play it again. But in the phone call you
14 talk about how the more help you give, the more
15 people you get to cooperate, the more people that
16 you tell them about, the more information you give
17 them, the better you hope your sentence to be;
18 right?

19 A. Yes.

20 Q. And so you knew that at least as of early
21 September?

22 A. Somewhere around there.

23 Q. So I think it was your testimony, Mr.
24 Urquizo, that you joined the SNM in 1998?

25 A. Yes, sir.

1 Q. And I think you earned your bones by
2 stabbing somebody named Paul?

3 A. Paul Lasner, one of my -- he's from my
4 hometown. One of my cousins had got killed by him,
5 so that's why I did it. I asked SNM if I could do
6 it. I wasn't actually an SNMer yet.

7 Q. But you wanted to be?

8 A. Yes.

9 Q. You wanted to be part of the gang?

10 A. Yes, sir.

11 Q. For protection?

12 A. No. Actually, they liked my style, how I
13 was, I guess. I was young. And they liked that I
14 guess I had the aggressive look, so they approached
15 me. And I thought about it, and I asked my friends
16 from Clovis if it was okay. And they told me,
17 "Well, you seem to want to be that direction, so
18 it's okay." So I joined.

19 Q. How long had you been in prison when you
20 joined?

21 A. I want to say about three months, four
22 months.

23 Q. That was the first time you went to
24 prison?

25 A. Yes, sir. I had just turned 18 years old.

1 Q. So within three or four months of going to
2 prison, you became part of the gang?

3 A. Yes, sir.

4 Q. And while you were part of the gang, you
5 did a lot for them, didn't you?

6 A. Yes, sir.

7 Q. I think you testified about assaulting an
8 inmate in 1998; right?

9 A. Yes, sir.

10 Q. Head-butting a correction officer in
11 Hobbs?

12 A. Yes, sir.

13 Q. You did that for the gang; right?

14 A. Yes, sir.

15 Q. You possessed a shank in 1999 so that you
16 could assault a corrections officer?

17 A. Yes, sir.

18 Q. And the reason for that assault, I think
19 you testified, was you wanted to get out. You guys
20 wanted to get out of being locked down; right?

21 A. Yes, they had locked us down, yes.

22 Q. And you thought that committing this
23 assault would help get you out of being locked down.
24 When I say "locked down," we're talking about being
25 in solitary confinement, not being able to leave the

1 cell; right?

2 A. That's not what I thought. That's what
3 the older homies thought, so I just did what they
4 told me.

5 Q. So you did what you were told?

6 A. Yes.

7 Q. For the gang?

8 A. Yes.

9 Q. And I think you also said in 2002, again,
10 you said it's for the gang that you shot a man in
11 the face?

12 A. Yes, sir.

13 Q. And you tried to shoot him again, but your
14 gun jammed?

15 A. Yes, sir.

16 Q. And then you ran from the cops; you were
17 on a high-speed chase, and ultimately you were
18 caught?

19 A. Yes, sir.

20 Q. Right. You did that for the gang.

21 A. Yes, sir.

22 Q. And I think in 2002 you said you assaulted
23 a corrections officer who had disrespected you guys.

24 A. Yes.

25 Q. You did that for the gang, too?

1 A. Yes, sir.

2 Q. And in 2016, I know you said something a
3 little bit different to your wife. But you said you
4 got into this fight with Greg Chacon also for the
5 gang; right?

6 A. Over politics, yes.

7 Q. But when Agent Acee came around in
8 February talking to you about the death penalty and
9 life, you switched, didn't you?

10 A. What do you mean, I "switched"?

11 Q. Well, March 6 you came and saw Agent Acee
12 again, and you provided information to Agent Acee,
13 didn't you?

14 A. Yes, sir.

15 Q. You joined their gang.

16 A. Yes, sir.

17 Q. Along with Mario Rodriguez.

18 A. Mario Rodriguez just barely did it
19 recently.

20 Q. He just joined the gang a little while
21 ago, didn't he?

22 A. Yeah.

23 Q. Okay. David Calbert?

24 A. Yes.

25 Q. A matter of fact, you talked to David

1 Calbert about joining their gang, didn't you?

2 A. Yes, I did.

3 Q. And after you had that conversation, you
4 gave some more information to the Government, didn't
5 you?

6 A. No. I had talked to the Government first,
7 and then I talked to David Calbert.

8 Q. That's right. That's right. You talked
9 to David Calbert, and then he joined their gang,
10 didn't he?

11 A. Yes.

12 Q. Because just like when you shot that man
13 in the face, you were going to do whatever it took.

14 A. For the gang.

15 Q. This gang now.

16 A. No, this is not a gang. That is a whole
17 totally different thing.

18 Q. There is a whole totally different thing.
19 This is about getting out of prison, isn't it?

20 A. No. I mean, I'm still --

21 Q. Well, let's talk about it. You're going
22 to get -- if you get what you hope for, you can be
23 out on the streets, in the community, a lot faster
24 than if you were facing a life sentence for the
25 murder of Javier Molina; right?

1 A. Yes.

2 Q. Okay. So you talked on the phone about
3 some of the things you were facing.

4 A. Right.

5 Q. Right?

6 A. Yes.

7 Q. Death penalty, life sentence, those sorts
8 of things; right?

9 A. Yes.

10 Q. Okay. For Javier Molina, your part in
11 that; right?

12 A. Yes, sir.

13 Q. For Julian Romero, your part in that --

14 A. Yes, sir.

15 Q. Right?

16 A. Yes.

17 Q. And all this other stuff that we're
18 hearing about that you did for SNM, that you say you
19 did; right?

20 A. Yes, sir.

21 Q. Okay. So you've pled guilty to
22 racketeering, which carries 20 years; right?

23 A. Yes, sir.

24 Q. But it's zero to 20.

25 A. I believe so.

1 Q. I don't want you to believe. It's in your
2 plea agreement. Do you need to see it?

3 A. I don't think it says zero to 20. It says
4 I face a maximum of 20 years.

5 Q. So there is no minimum.

6 A. No, it don't say minimum, no. It says a
7 maximum 20 years.

8 Q. There is no minimum amount of time that
9 you're facing.

10 A. I don't know. It doesn't say.

11 Q. Okay. So what you talked about on the
12 phone and what you've testified here is that the
13 more you do, the lesser of the sentence you're
14 hoping to receive.

15 A. Yes, sir.

16 Q. Right?

17 A. Right.

18 Q. And that sentence is going to be, as you
19 told Mr. Lowry, concurrent to the time you're doing
20 for the State; right?

21 A. Hopefully, yes, sir.

22 Q. Okay. Not hopeful. It says it in your
23 plea agreement.

24 A. It says that. But the Court still has to
25 approve that.

1 Q. Okay. But you're up here hoping the Court
2 approves it, aren't you?

3 A. Yes, sir.

4 Q. So if the Court approves it, and you get a
5 sentence, say, on the order of -- well, let me back
6 up. I think there was some confusion about how much
7 you owe the State, somewhere between nine and, like,
8 15 years; right?

9 A. Yes, sir.

10 Q. So you don't know when you're going to get
11 released?

12 A. I still don't know exactly. No, we're
13 still trying to figure it out. Don't know.

14 Q. So no matter what happens in this case,
15 you're going to do nine to 15 years in the state;
16 right?

17 A. Yes, sir.

18 Q. And if you didn't have that agreement in
19 your plea to concurrent sentence, the default is a
20 consecutive sentence for this federal case, isn't
21 it?

22 A. I believe so, yes.

23 Q. Okay. So then you do your nine to 15
24 years, and then you do another set of years for what
25 you pled guilty to in this case; right?

1 A. Yes, sir.

2 Q. But because of the agreement the
3 Government gave you, it's concurrent. So you do the
4 time at the same time; correct?

5 A. Right.

6 Q. So if you get a better deal than what you
7 owe the State -- let's say you owe the State 10
8 years. Let's pick that number, because I know
9 you're confused and there's some stuff up in the
10 air. If you get 10 years in the federal sentence,
11 then you're just doing 10 years that you already
12 have to do to the state; right?

13 A. Right.

14 Q. So for everything that I just went over,
15 everything that you did, you don't do a day in jail
16 for it, do you?

17 A. I guess not.

18 Q. I guess not.

19 MR. VILLA: No further questions.

20 THE COURT: Thank you, Mr. Villa.

21 Ms. Jacks, do you have further questions
22 of Mr. Urquizo?

23 MS. JACKS: I do, Your Honor.

24 THE COURT: Ms. Jacks.

25

1 CROSS-EXAMINATION

2 BY MS. JACKS:

3 Q. Mr. Urquizo, we've met before, haven't we?

4 A. Yes, ma'am, we have.

5 Q. Back in May of 2016, I came, along with an
6 investigator, Chris Filipiak, to PNM to talk to you
7 about this case, didn't I?

8 A. Yes, ma'am.

9 Q. And unlike the Government, I didn't come
10 offering money or time off your sentence, did I?

11 A. No, but you did tell me something
12 different, though.

13 Q. We came, Mr. Filipiak and I, to talk to
14 you about the accusations that the Government had
15 made that you brought paperwork down to Southern New
16 Mexico Correctional Facility right before the Molina
17 homicide; right?

18 A. Right.

19 Q. And you didn't have to talk to us, did
20 you?

21 A. No.

22 Q. I mean, you were free to walk away; right?

23 A. Yeah.

24 Q. And you agreed to talk to us.

25 A. Yes.

1 Q. And you agreed to talk to us because we
2 were coming on behalf of Mr. Sanchez, somebody that
3 you told us you respected?

4 A. Yes.

5 Q. Somebody that you told us was a good
6 listener, who didn't take sides.

7 A. Yes.

8 Q. Somebody who you told us was wise and had
9 been in custody a long time.

10 A. Yes.

11 Q. Somebody who you told us you respect,
12 because of the way he carries himself.

13 A. Yes, ma'am.

14 Q. And somebody who you told us the inmates
15 look up to because of the way he conducts himself in
16 prison.

17 A. Yes, ma'am.

18 Q. And how long did we sit there and talk?

19 A. An hour? I'm not too sure.

20 Q. More than an hour; right?

21 A. Two hours.

22 Q. And we were in a -- where did we meet?

23 A. In the South facility.

24 Q. I mean where, physically, did you and Mr.
25 Filipiak and I sit down and talk?

1 A. I'd say where one of the caseworkers'
2 offices is at.

3 Q. And there was a guard outside the door?

4 A. Yes, ma'am.

5 Q. But he allowed us to close the door --

6 A. Yes, ma'am.

7 Q. -- and speak candidly with each other?

8 A. Yes.

9 Q. Now, during that conversation, when we
10 told you that the Government had made a claim that
11 you brought paperwork down to Southern New Mexico
12 Correctional Facility, do you remember what your
13 reaction -- let me go back. When we told you that
14 the Government had made this claim that you brought
15 paperwork down just before the Molina homicide when
16 you were transported with Mauricio Varela, do you
17 remember what your reaction was?

18 A. Yeah.

19 Q. What?

20 A. I was like, oh, like, I didn't know what
21 to say.

22 Q. You actually laughed, didn't you?

23 A. I laugh a lot, though. That's something I
24 do. I don't know why.

25 Q. Well, in this particular instance, you

1 laughed and you told us that that was impossible,
2 didn't you?

3 A. Yes, I did tell you that.

4 Q. And you went on to explain how that
5 transportation process worked and why it was
6 impossible. Do you remember that?

7 A. Yes.

8 Q. And I guess I just want to step through
9 that a little bit at a time. So we talked in detail
10 that day about what happened when you were
11 transported from the Penitentiary of New Mexico to
12 Southern New Mexico Correctional Facility; right?

13 A. Right.

14 Q. And did you start off by explaining what
15 happens physically to your person prior to
16 transport?

17 A. Yes, ma'am.

18 Q. And what did you tell us?

19 A. I told you that they search us first.
20 Then they pick up all our property, put it together.

21 Q. Let's break that down a minute. Let's
22 just start, first of all, with your person. So you
23 told us that they searched you.

24 A. Yes, you go to a strip cage, and they
25 strip search you, make sure you don't have no

1 contraband on you.

2 Q. You're talking fast. And I told you that,
3 too. So I'm going to slow you down a little bit.

4 A. Okay.

5 Q. So you told us they take you to a strip
6 cage --

7 A. Yes, ma'am.

8 Q. -- and make you take off all your clothes.

9 A. Yes.

10 Q. And you actually give those clothes back
11 to the prison guards; right?

12 A. Yes, ma'am.

13 Q. And then you told us that once you're
14 naked, they search your body and some of your body
15 cavities; right?

16 A. You've got to turn around and cough, make
17 sure you don't have nothing, stuff back there, yeah.

18 Q. Right, because sometimes inmates transport
19 things in their rectum.

20 A. Yes, ma'am.

21 Q. So they want to make sure before you are
22 transported that you don't have anything there.

23 A. Yes, ma'am.

24 Q. And then what do they give you to put on
25 while you ride in the transport van?

1 A. Now, they give you a white suit. But I
2 went in my greens that time -- no, my yellows.

3 Q. Did you tell Mr. Filipiak and me on May
4 25, 2016, that after they stripped you, they let you
5 keep your boxers on, and they put you into a white
6 jumpsuit?

7 A. I don't remember telling you that.

8 Q. You've seen those white jumpsuits; right?

9 A. Yeah, they do that now.

10 Q. And you've worn those before; right?

11 A. Yes.

12 Q. And that's like a disposable white
13 jumpsuit?

14 A. Yes, see-through.

15 Q. That's -- I don't know how you can
16 describe the material.

17 A. Some kind of fiber. I don't know. But
18 yeah, I know what you're talking about.

19 Q. And so you don't remember telling Mr.
20 Filipiak and me that that's what they gave you, a
21 white jumpsuit?

22 A. I thought it was my yellows I went in.
23 But maybe it's a possibility I did tell you that.
24 I'm not too sure.

25 Q. Really, the issue is: Is that what you

1 wore, a white jumpsuit?

2 A. I'm not too sure. I don't think so. I
3 think it was my yellows.

4 Q. Would you agree with me on this point?
5 Whatever you wore, it was something they gave you
6 specifically to wear on that transport?

7 A. Yes, yes.

8 Q. After they took the clothes that you had
9 been wearing.

10 A. Yes.

11 Q. And that's just in case you had secreted
12 some sort of -- I don't know -- contraband in your
13 clothes somehow, in the seams of your clothes?

14 A. Yeah, I guess, yes.

15 Q. Then did you talk to us about what
16 happened to your property, your personal property?

17 A. Um-hum, yes.

18 Q. Prior to the transport?

19 A. Yeah. They put it all together, and they
20 put it in the bag, and then we took it.

21 Q. Okay. Let's just break that down a bit,
22 okay. So when they told you you were going from the
23 Penitentiary of New Mexico down to Southern and it's
24 the day of the transport, what did you physically do
25 with the personal property in your cell?

1 A. Actually, I did ask for -- they gave us,
2 like, two bags. I put everything inside two bags.
3 And then the officer escorted me to the strip cage.
4 And that's when he stripped me. And then he got my
5 bag -- my two bags, and took it with us.

6 Q. Okay. Well, did the officer do something
7 with your bags of property before he put it into the
8 transport?

9 A. Well, no. Actually, they were supposed to
10 inventory it. But no, they didn't inventory it.

11 Q. Your testimony today is that they did not
12 inventory it?

13 A. No. I think they just got a paper and
14 just wrote down things on it. I don't think they
15 inventoried it.

16 Q. Let me go back, okay? Because I want to
17 talk to you about what you told Mr. Filipiak and me.

18 A. Okay.

19 Q. Did you tell us that, in fact, that once
20 you got your property together, you gave it to an
21 officer who went through it to make sure that you
22 were transporting only the items that you were
23 allowed to transport?

24 A. Yeah.

25 Q. Okay. And did you tell us that he

1 prepared an inventory of that property?

2 A. That's a possibility. But, yes, they
3 write down the stuff. They don't go through your
4 stuff, actually. They just pretty much ask you,
5 "What's in your bag?" They don't want to go through
6 all the hassle. They just like, "What's in your
7 bag?" and they start marking things down.

8 Q. Did you tell us that the officer went
9 through your things and placed them in a clear
10 plastic bag so it could be transported down to
11 Southern?

12 A. No, I placed the stuff myself in the clear
13 plastic bag, two bags.

14 Q. And did you tell us that the officer that
15 searched your property actually prepared a report
16 and confirmed that you were not attempting to
17 transport any contraband?

18 A. They don't ever do that.

19 Q. You're saying you didn't tell us that?

20 A. No, I mean honestly, when I talked to you,
21 I mean, I was still on that side, so I was --

22 Q. Mr. Urquizo, there is no pending question,
23 so you'll need to wait for me to ask the next
24 question. Do you understand?

25 A. Yes.

1 Q. Thank you.

2 Now, the day that you met with Mr.
3 Filipiak and me, you were describing the transport
4 process, did you describe to us how you were
5 transported down to Southern and how your property
6 was transported?

7 A. Yes.

8 Q. And what did you tell us about that?

9 A. I told you they put me and Mauricio Varela
10 in a van and they put our property in a little
11 trailer. They have a little trailer that's on the
12 van. And that's where they put my stuff.

13 Q. So you told us they actually transport the
14 inmates separate from the inmates' property?

15 A. Yeah. Well, they have the trailer in the
16 back. So I guess it's separate.

17 Q. And you described how there was a trailer
18 that was actually hitched onto the back of the van
19 that was towed behind the van as the van drove
20 around transporting inmates?

21 A. Correct.

22 Q. And did you have -- did you tell us that
23 during the transport, you had no access to your
24 property?

25 A. Yes.

1 Q. And that was true; right?

2 A. That's true.

3 Q. When you left the Penitentiary of New
4 Mexico, did you go directly to Southern New Mexico
5 Correctional Facility? And this would be on the
6 transport on March 6, 2014.

7 A. Yes, ma'am.

8 Q. You went directly there?

9 A. Yes.

10 Q. Are you sure?

11 A. I think so.

12 Q. Did you tell Mr. Filipiak and me that you
13 were in the van for quite a while and the van made
14 several stops between the Penitentiary of New Mexico
15 and Southern New Mexico Correctional Facility?

16 A. It's a possibility. Usually -- actually,
17 they do that sometimes. So possibility. I don't
18 know exactly where we stopped. Those vans don't
19 have no windows or nothing, so --

20 Q. And that wasn't my question. My question
21 was: Did you go directly, or did you stop?

22 A. Oh, man. We probably stopped. Yeah, we
23 stopped.

24 Q. And you told that to Mr. Filipiak and me;
25 right?

1 A. I guess.

2 Q. And that was the truth?

3 A. What?

4 Q. That you made stops; you didn't go direct.

5 A. Yes, I guess. I can't remember.

6 Q. What time did you get to Southern New

7 Mexico Correctional Facility; do you remember?

8 A. It was nighttime, probably close to 8:00,

9 somewhere around there.

10 Q. And that's what you told Mr. Filipiak and
11 me back in May of 2016; right?

12 A. Yes.

13 Q. And that was the truth?

14 A. Yes.

15 Q. And what happened when you got to Southern
16 New Mexico Correctional Facility, to you personally?

17 A. Went through the medical procedures. They
18 check you, make sure you're okay, and then we got
19 our new clothes; we got some greens, and our
20 beddings and all that. And after that, they took us
21 to a housing unit.

22 Q. Let me stop you there. When you got off
23 the van and you went to medical and you got new
24 clothes and that sort of thing, were you subjected
25 to yet another strip search?

1 A. Actually, they didn't do a strip search
2 there, no.

3 Q. At no point between the time that you
4 arrived at Southern and the time that you were
5 placed in your cell were you strip-searched?

6 A. No. They're supposed to, but we didn't
7 get strip-searched.

8 Q. On May 25, 2016, did you tell Mr. Filipiak
9 and me that when you got to Southern, you were
10 strip-searched for the second time that day before
11 you were placed in your cell?

12 A. I do not recall if I told you that or not.

13 Q. And as you sit there today on the witness
14 stand, is it your testimony that you have a specific
15 recollection that, in fact, you were not
16 strip-searched at Southern? Or are you just saying
17 that?

18 A. I can't remember. I mean, man, I've been
19 stripped so many times, I'm not sure. But it's a
20 possibility. Probably, yes.

21 Q. Probably yes, you were strip-searched?

22 A. Probably, yes.

23 Q. So if you told this to Mr. Filipiak and me
24 back in May of 2016, that was the truth?

25 A. I mean, I think there are a lot of things

1 that you're asking right now that I don't think I
2 said. I think you're just telling me things that I
3 don't remember saying.

4 Q. We'll get to that in a minute, Mr.
5 Urquizo.

6 A. Yeah.

7 Q. So once you got to Southern New Mexico
8 Correctional Facility and you were placed in a cell,
9 did you describe -- did you undergo a process that
10 you call orientation or that the prison calls
11 orientation?

12 A. Yes.

13 Q. And when you spoke to Mr. Filipiak and me
14 back in May of 2016, did you describe to us what
15 orientation was?

16 A. Yes.

17 Q. Can you tell us here what it is?

18 A. You go to your cell and you're locked down
19 for, like, seven days. You've got to see the
20 caseworker, mental health, STIU, make sure you have
21 no problems with nobody in the pod. And they get
22 you, so you get to meet everybody and once they see
23 that everything is okay, within seven days they let
24 you out.

25 Q. Okay. Are you held in your cell the whole

1 seven days, or are you permitted out to take a
2 shower or to have some sort of tier time, like make
3 a telephone call?

4 A. Yes, permitted to come out to take a
5 shower.

6 Q. Okay. And when -- during orientation when
7 you come out to take a shower, where are the other
8 inmates at that time?

9 A. In my pod, they get locked down.

10 Q. So what would happen is, if you were going
11 to shower, everybody would have to lock up, and then
12 you would be let out to shower?

13 A. Correct.

14 Q. So during orientation, you don't have
15 physical contact with other inmates in the housing
16 pod?

17 A. No.

18 Q. Okay. But you can -- either they can talk
19 to you through your cell door?

20 A. Yes.

21 Q. Is that right?

22 A. Yes.

23 Q. Or you can talk to them when you're out on
24 the tier taking a shower, whatever, through their
25 cell door.

1 A. Yes.

2 Q. When you got to Southern New Mexico
3 Correctional Facility after the transport on March
4 6, 2014, and you were brought in to yellow pod, was
5 the pod locked down?

6 A. When I went into yellow pod?

7 Q. Right.

8 A. Yes.

9 Q. So everybody was locked in their cell?

10 A. In yellow pod, yes.

11 Q. And then you were walked to the cell that
12 was assigned to you?

13 A. No. The CO was searching the cell when I
14 went to the door to talk --

15 Q. That wasn't my question. You already
16 testified to that. But my question was: Once you
17 got there, you were locked into cell 110; right?

18 A. Not right away, no.

19 Q. Okay. Well, at some point were you locked
20 into cell 110?

21 A. Yes.

22 Q. And when you were locked into cell 110,
23 was the rest of yellow pod still locked down into
24 their cell?

25 A. Yes, but they let out the porters to

1 clean.

2 Q. So let's go back a second. I want to
3 flesh that out. But let's just go back a second.
4 At the time that you were put into cell 110 -- this
5 is on March 6, the day before the Molina homicide --
6 and the door was closed -- approximately -- and I'm
7 asking you -- just approximately what time was that?

8 A. I don't know, maybe 9:30, 10:00. I'm not
9 too sure.

10 Q. So 9:30 or 10:00 at night?

11 A. Yes.

12 Q. And the rest -- we're going to get to the
13 porters in a second. But the rest of the unit was
14 locked down into their cell at that point?

15 A. Except the porters.

16 Q. I'm going to get to that. But aside from
17 the porters, the rest of the unit was locked down?

18 A. Yes.

19 Q. And after you got locked into your cell
20 around 9:30 or 10:00 p.m., you're saying the porters
21 got released.

22 A. Yes.

23 Q. And is that one inmate or two inmates?

24 A. Two inmates.

25 Q. And the porters' job is to clean up?

1 A. In the pod, yes.

2 Q. At any point after you got locked into
3 your cell on March 6 of 2014, did other inmates
4 besides the porters get let out of their cells?

5 A. In my pod?

6 Q. Yes.

7 A. No.

8 Q. So yellow pod, once you entered that cell,
9 it remained locked down for the night?

10 A. Yes, ma'am.

11 Q. And did you tell that to Mr. Filipiak and
12 me back in May of 2016?

13 A. Probably.

14 Q. What happened to your property? And I'm
15 talking about on March 6.

16 A. I stayed in the front, in the intake,
17 because the property officer was gone.

18 Q. Okay. So the van pulls in with the
19 trailer behind it down at Southern, and the inmates
20 are taken out of the van?

21 A. Correct.

22 Q. Do you see what happens to your property?
23 I mean, did you see your property being removed from
24 the trailer?

25 A. Yes. They put all our property inside of

1 a cage and locked it.

2 Q. And you observed that.

3 A. Yes.

4 Q. And based on your experience in the prison
5 system being transported around, you know that you
6 can't get your property back until the property
7 officer comes in the next day or whenever he comes
8 in.

9 A. Correct.

10 Q. And searches the property and brings it to
11 you?

12 A. Yes.

13 Q. And did you tell that to Mr. Filipiak and
14 me back in May --

15 A. Yes.

16 Q. -- 2016?

17 A. I think so, yes.

18 Q. Was that the truth?

19 A. Yes.

20 Q. So I want to go to the next morning, which
21 would be March 7 of 2014. So when you woke up that
22 morning, can you tell me -- just sort of describe to
23 me where people were in your pod, in yellow pod.

24 A. As soon as we got up, I mean, everybody
25 came to -- not everybody, but Carlos Herrera, Dale

1 Chavez, Juanito Mendez -- they all came to my cell
2 right away, and I started talking to them through
3 the door.

4 Q. So other inmates were released to go do
5 whatever they wanted to do. They were released from
6 their cells.

7 A. Yes, ma'am.

8 Q. And you remained locked in your cell.

9 A. Yes.

10 Q. And how long on March 7, 2014, did you
11 stay locked in your cell until you were first
12 released?

13 A. All day long.

14 Q. At some point were you let out?

15 A. To take a shower for the afternoon count.

16 Q. So what time were you released from your
17 cell on March 7 to take a shower?

18 A. It was like 4:00 or 5:00 when the count --
19 before the Javier Molina happened, before that
20 murder happened.

21 Q. So give us your best recollection.

22 A. I want to say 4:00 or 5:00. Somewhere
23 around there.

24 Q. And in fact, you told Mr. Filipiak and me
25 the same thing; it was somewhere around 4:00 or 5:00

1 p.m. on March 7 that you got to be released for the
2 first time from your cell on March 7.

3 A. Yes.

4 Q. And that was for the purpose of showering.

5 A. Yes.

6 Q. And was it still the case that in order
7 for you to be released to take a shower, the whole
8 pod had to be locked down?

9 A. Yes.

10 Q. Now, when you were transported from --
11 when you got to Southern, you weren't the only
12 inmate that was dropped off there; right?

13 A. No.

14 Q. Were there two other inmates with you?

15 A. Yes, Marcelino Varela and Reynaldo
16 Enriquez.

17 Q. And did both of those inmates also get
18 housed in yellow pod?

19 A. Yes, ma'am.

20 Q. So did the rules about orientation also
21 apply to both of those inmates?

22 A. Yes.

23 Q. Were they also locked in their cells from
24 when they got there on March 6 through the late
25 afternoon of March 7, 2014?

1 A. Yes.

2 Q. And when you got out to shower, how long
3 were you let out to do that?

4 A. Five, ten minutes. I don't know. I was
5 out there maybe ten minutes, maybe.

6 Q. You had time to tend to your business and
7 walk back up?

8 A. Yeah. Talked to a few people in lockup,
9 yes.

10 Q. And did that also happen for Mr. Varela
11 and Mr. Enriquez, the other two inmates?

12 A. Yes.

13 Q. Were they also let out one at a time to
14 shower?

15 A. First it was Reynaldo Enriquez. Then it
16 was Varela, and me.

17 Q. So you were the last one?

18 A. Yes, ma'am.

19 Q. And when those two guys were let out one
20 at a time to shower, the whole pod stayed on
21 lockdown?

22 A. Yes.

23 Q. Did you eat dinner on March 7 of 2014?

24 A. In 2007?

25 Q. March 7. So the day of the Molina

1 homicide.

2 A. Yes. They had just passed the dinners,
3 yes.

4 Q. Did you eat dinner locked in your cell?

5 A. I didn't even get to eat dinner. That's
6 exactly when it happened.

7 Q. Okay. So were you handed your dinner?

8 A. Yes.

9 Q. Okay. So your dinner had been passed to
10 you in your cell, but you didn't have time to eat
11 it?

12 A. No.

13 Q. And did the other inmates in yellow pod
14 also get passed their dinner in their cells that
15 day?

16 A. Yes.

17 Q. Now, when Mr. Beck was asking you
18 questions -- let me just go back. What is your
19 story today about when you got your property back,
20 if you did?

21 A. What is my story?

22 Q. What are you testifying to?

23 A. I'm testifying to the truth. And the
24 truth is that on March 7, I got my property around
25 11:00.

1 Q. And your testimony is that you got your
2 property around 11:00 in the morning.

3 A. Yes, ma'am.

4 Q. On March 7.

5 A. Yes.

6 Q. And that's what you said yesterday when
7 Mr. Beck asked you the question.

8 A. Yes.

9 Q. Okay. That's not what you told Mr.
10 Filipiak and me back in May of 2016, is it?

11 A. Yes, it is.

12 Q. It's not -- you think it is?

13 A. I know it is. I know I said that.

14 Q. Let me just ask you this question. Did
15 you tell Mr. Filipiak and me back on May 25, 2016,
16 that while you were locked up, your property was
17 placed in the day room, but that you never had a
18 chance to get it back because Mr. Molina was killed?

19 A. No. No, I did not say that.

20 Q. And did you tell Mr. Filipiak and me on
21 May 25, 2016, that what we ought to do is look for
22 your property inventory forms, because what your
23 property inventory forms would show is that your
24 property was inventoried at PNM prior to the
25 transport and that there was no inventory at

1 Southern after the transport?

2 A. I'm not sure.

3 Q. So you might have told us that?

4 A. I might have told you that. But actually,
5 there was an inventory sheet in Southern. They
6 actually did inventory my stuff on March 7. There
7 is an inventory.

8 Q. Mr. Urquizo, there is no question pending.

9 MS. JACKS: Your Honor, I'd ask that that
10 outburst be stricken.

11 THE COURT: It will be stricken from the
12 record.

13 BY MS. JACKS:

14 Q. Now, when Mr. Filipiak met with you in May
15 2016, that was the first time -- after you told us
16 that, did we say, "Oh, darn, we didn't bring a
17 release. We don't have a form for you to sign to
18 let us examine your records." Do you recall that?

19 A. Yes.

20 Q. And then about two weeks later Mr.
21 Filipiak came back; right?

22 A. Right.

23 Q. And when he came back, he really came back
24 for two reasons, didn't he?

25 A. Yes.

1 Q. He came back, Number 1, to go over the
2 statement that he had prepared to let you look at it
3 and let you make any corrections; right?

4 A. He didn't go over it, though.

5 Q. That's your testimony today. I'm asking
6 you, did he come back and discuss with you and show
7 you the prior -- the statement form that he had
8 filled out?

9 A. He told me he typed out whatever we had
10 talked about. That's what he told me.

11 Q. He went over with you what he had typed
12 out about what we had talked about about two weeks
13 prior?

14 A. We didn't go over it. He just told me
15 what he had typed out.

16 Q. Did he show it to you?

17 A. He had it, and I told him, "That's all
18 good." I didn't even look at it.

19 Q. So he handed it to you and he asked you to
20 look at it; right?

21 A. Yes.

22 Q. And you looked at it. Nobody was rushing
23 you; right?

24 A. I did not look at it. I said, "It's all
25 good."

1 Q. That's what you're saying now, but my
2 question is: Did you look at it?

3 A. No.

4 Q. You didn't look at it at all? He offered
5 it to you, and you just shoved it back in his face
6 and said, "I don't care"?

7 A. No, I just told you I said it was all
8 good.

9 Q. Okay. "It's all good," meaning it's
10 accurate. You told him that; right?

11 A. I figured it was. I mean, I talked to you
12 guys.

13 Q. And the second thing he did was, he asked
14 you to sign a release so that we could access your
15 property records; right?

16 A. Correct.

17 MS. JACKS: Your Honor, I have a document.
18 I'd like this marked defense next in order. That is
19 ER.

20 Q. I'm going to mark it and ask you to take a
21 look at it, Mr. Urquizo.

22 MS. JACKS: May I approach, Your Honor?

23 THE COURT: You may.

24 BY MS. JACKS:

25 Q. So Mr. Urquizo, showing you what's been

1 marked as Defendants' Exhibit ER, do you recognize
2 that form?

3 A. Yes, I do.

4 Q. And is that, in fact, the original of the
5 release that Mr. Filipiak came back and asked you to
6 sign?

7 A. I think it's the original. That's my
8 writing, so it has to be the original.

9 Q. It's in pen; right? You're writing --
10 it's not a xerox copy, is it?

11 A. Yes.

12 Q. So is that, in fact, the release you
13 signed to give us access to those records?

14 A. Yes.

15 Q. Okay.

16 MS. JACKS: Your Honor, I ask that ER be
17 admitted.

18 MR. BECK: No objection, Your Honor.

19 THE COURT: Any objection from any of the
20 other defendants?

21 MS. BHALLA: No, Your Honor.

22 THE COURT: Not hearing any, Defendants'
23 Exhibit ER will be admitted into evidence.

24 (Defendants' Exhibit ER admitted.)

25 MS. JACKS: And Your Honor, can I publish

1 this to the jury?

2 THE COURT: You may.

3 BY MS. JACKS:

4 Q. The date that you signed that was June 15,
5 2016?

6 A. Yes, ma'am.

7 Q. And the reason you signed that was to help
8 us corroborate what you were telling us, that you --
9 that you never got -- I'm sorry, that you didn't
10 transport paperwork and that you never got your
11 property when you were down in Southern.

12 A. That I never got my property?

13 Q. Yeah. When you signed this, that was the
14 reason you signed it; right?

15 A. No, it was for an inventory sheet.

16 Q. Right. So that we could get your property
17 inventory forms.

18 A. I never said I never got my property.

19 Q. That's your testimony today; right? But
20 you signed this to help us corroborate what you were
21 telling us, that it was impossible that you did not
22 transport the paperwork.

23 A. No, you wanted to look through all my
24 phone calls and letters and stuff like that, so I
25 signed that paper.

1 Q. Well, that's not true.

2 A. That's very true.

3 Q. Mr. Urquizo, at some point when you were
4 housed at PNM North, after the Molina homicide, did
5 you actually see paperwork that Jerry Montoya had
6 while he was fighting the state murder charges?

7 A. Did I see paperwork?

8 Q. Yes.

9 A. Yeah, I did see a little bit, yes.

10 Q. But let's just break this down a little
11 bit. Jerry Montoya is one of the people that was
12 accused of stabbing Mr. Molina; right?

13 A. Correct.

14 Q. And he was charged in state court with
15 that murder?

16 A. Yes.

17 Q. And while he was fighting his murder case
18 in state court, he was housed in the same pod as you
19 at PNM North, wasn't he, at least for some period of
20 time?

21 A. Yes. About a month or so, yes.

22 Q. And Jerry Montoya had access to some of
23 the police reports and discovery documents and
24 witness statements related to the Molina homicide
25 because his lawyer had given them to him; right?

1 A. Yes.

2 Q. And he was fighting his case.

3 A. Yes.

4 Q. And at some point did Jerry Montoya
5 provide you with access to that paperwork?

6 A. Parts of it.

7 Q. And is it by reading Jerry Montoya's legal
8 paperwork that you discovered for the first time
9 that you were being accused of bringing it down or
10 the prosecution was alleging you were the one that
11 brought it down to Southern?

12 A. No. Actually, the paperwork didn't say
13 nothing about me.

14 Q. Did you tell Mr. Filipiak and me in May of
15 2016 that that's exactly how you first found out
16 that the prosecution was alleging you brought the
17 paperwork?

18 A. No, that's not. I found out about the
19 paperwork that was sent to 2-A K pod. That's how I
20 found out, RICO indictments. And that was sent to
21 Ron Ron --

22 Q. I'm sorry, there is no question pending.

23 Mr. Urquizo, did you just hiss?

24 A. Did I what?

25 Q. Did you just hiss?

1 A. What do you mean, did I just hiss? No, I
2 didn't.

3 Q. Mr. Urquizo, did you tell Mr. Filipiak and
4 me that when you read Jerry Montoya's legal
5 paperwork, you realized that it contained false
6 statements, that you passed it under the door of
7 yellow pod to blue pod to Timothy Martinez?

8 A. No.

9 Q. You didn't say that?

10 A. No. That paperwork said nothing.

11 Q. And did you tell Mr. Filipiak and me that
12 you never saw or possessed any paperwork on March 6
13 and 7, 2014?

14 A. I straight lied to you guys about that.
15 Yes, I did.

16 Q. So you did tell us that, but now you're
17 saying that's a lie?

18 A. Well, at that time, I mean, I wasn't
19 helping --

20 Q. Excuse me. That's a yes-or-no question,
21 Mr. Urquizo.

22 A. At that time, yeah.

23 Q. Did you tell us that?

24 A. At that time, I did say that.

25 Q. Okay. So you did tell us that you never

1 saw or possessed the paperwork. That's what you
2 said back in May of 2016.

3 A. I lied to you guys, yes.

4 Q. And now your testimony is that was a lie?

5 A. That I lied to you guys about that, yes.

6 Q. When you met with Mr. Filipiak and me back
7 in May of 2016, did you also tell us or give us a
8 suggestion about what we could do to investigate the
9 case to show that the paperwork wasn't passed?

10 A. I don't recall.

11 Q. Do you recall telling us anything about
12 video from blue pod and yellow pod?

13 A. Oh, yes. Yeah.

14 Q. What did you tell us?

15 A. That if you check the cameras, you could
16 see; but if you check the cameras, yeah.

17 Q. You told us, in fact, that if we got the
18 video from blue pod and the video from yellow pod
19 for March 7 of 2014, it will show that you were
20 telling us the truth, that there was no paperwork
21 passed; right?

22 A. I probably told you guys that.

23 Q. In that discussion with us back in May of
24 2017, you also told us that you had told law
25 enforcement that. Do you remember?

1 A. That I had told law enforcement?

2 Q. Yeah.

3 A. They never came to talk to me.

4 Q. Did you have a particular white gold
5 necklace that you were fond of?

6 A. Yes. I lost a white gold necklace, yes.

7 Q. You didn't really lose it, did you? It
8 was taken by somebody, wasn't it?

9 A. Yes. Whenever I got transported, the
10 STIU -- they took all my belongings, and my chain
11 was part of it.

12 Q. Did you tell us, in fact, back in May of
13 2016, that STIU Officer Sapien pulled you in to
14 accuse you of transporting the paperwork?

15 A. Actually, he asked me. He didn't accuse
16 me.

17 Q. But did you tell us that?

18 A. I think so, yes.

19 Q. Was that true?

20 A. Yes.

21 Q. And in fact, during that interview, did
22 you tell Sapien that you did not transport the
23 paperwork?

24 A. Of course. I was an acting SNM Gang
25 member still.

1 Q. And did you tell us during that interview
2 or in connection with that interview that
3 correctional officers who escorted you over to speak
4 with Sapien and back from speaking with him took
5 your white gold necklace?

6 A. No, they didn't take it. No.

7 Q. That's just a lie?

8 A. No, I didn't tell you that. I lost that
9 in the property.

10 Q. I have a few more questions about that
11 interview. Because one of the other things we
12 talked about back in May of 2016 was about Jerry
13 Armenta.

14 A. Right.

15 Q. Do you remember that?

16 A. Yes.

17 Q. And Jerry Armenta was one of the people
18 that actually stabbed Molina; right?

19 A. Yes.

20 Q. And did you tell us something about Jerry
21 Armenta or that -- well, did you tell us something
22 about Jerry Armenta's daughter during our interview?

23 A. Yes, that she was disabled.

24 Q. Okay. That he had an intellectually
25 disabled daughter?

1 A. Yes.

2 Q. And in fact, I think you said she had Down
3 Syndrome?

4 A. Yes.

5 Q. And that Mr. Armenta was -- at the time of
6 the Molina homicide, that Mr. Armenta didn't have a
7 lot of time left to do on his sentence.

8 A. Right.

9 Q. Right?

10 A. Yes.

11 Q. And did you tell us that because he was a
12 short-timer and because he had a Down Syndrome
13 daughter that the SNM wouldn't ask Jerry Armenta to
14 kill somebody?

15 A. No, they shouldn't have asked him to do
16 it.

17 Q. You told us back in May 2016 that they
18 wouldn't.

19 A. Shouldn't ask him.

20 Q. All right. So I think we've been through
21 the facts -- the sort of chain of events that led
22 you to become a witness for the Government. And you
23 agree that that started back in February of 2017.

24 A. Yes.

25 Q. And the story that you've told here in

1 court over the past two days is different than what
2 you told Mr. Filipiak and me; would you agree?

3 A. No, maybe just one little part. I was
4 doing that because I was still an active SNM Gang
5 member, so that's why I was doing that.

6 Q. Now what you're saying is that you
7 actually had the paperwork and you brought it down
8 to Southern; right? That's your story here in
9 court.

10 A. Everybody knows I had the paperwork.

11 Q. That's nonresponsive. So I'm going to ask
12 you to answer the question. That's your story here
13 in court; right? That's a yes or no.

14 A. No, it's been my story the whole time.

15 Q. It hasn't been your story the whole time.
16 You just told us that you told me and Mr. Filipiak
17 back in May of 2016 that you had nothing to do with
18 the paperwork.

19 A. Not with you guys, because I didn't really
20 want no part of it. That's why.

21 Q. Okay. Well, that was something that you
22 said that's different, right, than what you're
23 telling us here in court?

24 A. I wanted no part of it. That's why.

25 Q. I'm not asking you why, Mr. Urquizo.

1 Listen to the questions. So now your story is that
2 you brought the paperwork. So let's sort of flesh
3 that out. Okay? According to your story here in
4 court, you're saying you got to Southern at night on
5 March 6.

6 A. Yes.

7 Q. And everything was locked down except the
8 porters.

9 A. Yes.

10 Q. And that you're claiming now you got your
11 property back.

12 A. Yeah. I got my property March 7 around
13 11:00.

14 Q. And you're saying around 11:00 in the
15 morning, so before lunch or --

16 A. Yes, I told you that that day, too.

17 Q. No, you didn't.

18 A. Yeah, I did.

19 Q. Well, that's why we have Mr. Filipiak.

20 And it's also your story here in court
21 that between the time that you got to Southern on
22 March 6 and the time that you were returned -- you
23 got your property back at 11:00 a.m. on March 7,
24 there were letters being exchanged under the door
25 between blue pod and yellow pod.

1 A. Yes.

2 Q. And I think you told us yesterday that Mr.
3 Rodriguez, you're claiming, passed two others?

4 A. Yes.

5 Q. Or two notes?

6 A. Yes. The first night I got there, I got a
7 letter, and then the next day.

8 Q. Okay. And were these letters written
9 on -- what kind of paper were these letters written
10 on?

11 A. Lined paper.

12 Q. Just like lined -- lined --

13 A. Lined white paper, yes.

14 Q. Okay. And was it a normal-sized piece of
15 paper, or was it somehow folded up in a little ball
16 and rolled --

17 A. Folded up like a little letter.

18 Q. And you're claiming for the first time
19 today that Mr. Sanchez sent you a letter.

20 A. What? I didn't say that.

21 Q. When you were answering questions of Mr.
22 Villa, he asked you some question and you said
23 something about Daniel Sanchez sending you a letter.

24 A. I didn't say Daniel Sanchez sent me a
25 letter.

1 Q. Maybe I misunderstood your testimony.

2 A. I didn't say that.

3 Q. So the letters that you're talking about
4 here in court are two from Mr. Rodriguez?

5 A. Yes.

6 Q. And then one from you to Mr. Rodriguez.

7 A. One, yes.

8 Q. Is that it?

9 A. No. Two letters -- two. The same night I
10 wrote them, when the porters came out, passed it,
11 and the next day they sent a letter back. Two
12 letters. I wrote two.

13 Q. So you're claiming Rodriguez wrote you
14 two, and that you wrote Rodriguez two.

15 A. Yes, ma'am.

16 Q. You don't have those letters, do you?

17 A. No.

18 Q. And you first -- when was it that you
19 first mentioned anything about letters going under
20 the door between blue and yellow pod?

21 A. I believe it was like on the March -- when
22 I went down here in Las Cruces for the debrief.

23 Q. Three years after the homicide of
24 Mr. Molina?

25 A. I guess so.

1 Q. In March of 2017?

2 A. Yes.

3 Q. And this paperwork that you claim to have
4 carried from PNM down to Southern, can you tell
5 us -- Mr. Beck asked you some questions about it. I
6 just want to make sure we get your full story of
7 what that supposedly looked like. So is it one
8 page, two pages, 20 pages?

9 A. Just the one page of the police report.

10 Q. It was one page?

11 A. Yes.

12 Q. And was it on -- what about it made you
13 know that it was a police report, according to you?

14 A. It had the thing, Las Cruces Police. I
15 don't remember exactly what it had on there, but it
16 also had -- I want to believe it had the name of one
17 of the defendants. I think it was Jesse Sosa, I
18 think. And it had an address, Social Security
19 number.

20 Q. Whose address and Social Security number?

21 A. I believe it was Jesse Sosa's. I think
22 that was his paperwork.

23 Q. And the paper had some -- according to
24 your story, had some sort of logo or stamp on it
25 from the Las Cruces Police Department?

1 A. Yes, ma'am.

2 Q. And was the paper a form? Like, were
3 there various boxes to be filled out, or was it just
4 lined?

5 A. No, it was just -- had information. It
6 had the police report, and it had the typing on the
7 front of the statement, the summary.

8 Q. It had -- I'm sorry?

9 A. Like the summary of what was said that
10 happened.

11 MR. VILLA: Your Honor, can we have just a
12 minute? Mr. Perez has --

13 THE COURT: Well, why don't we do this:
14 We're pretty close to lunch. Why don't we go ahead
15 and take our lunch break. All right. All rise.

16 (The jury left the courtroom.)

17 THE COURT: All right. We'll see
18 everybody in about an hour.

19 MR. VILLA: And Your Honor, can we add
20 some things to the record before we take a break?

21 THE COURT: Okay.

22 MR. VILLA: So just for the record, Mr.
23 Perez had to run off urgently to use the bathroom.
24 I'm told that he was straining to keep his eyes open
25 during the cross of Urquizo and when I was up here

1 doing cross-examination, which is completely
2 unusual. I mean, he's been completely attentive to
3 these proceedings up until this week.

4 From about 11:00 until just now, he's been
5 having a very difficult time keeping his eyes open
6 and staying awake. And I asked him if he was okay,
7 and he told me that he's had a very severe headache,
8 and I've requested that he be given some medication.
9 So I think he's still struggling very mightily to
10 attend to proceedings.

11 THE COURT: Well, my perception is
12 different than yours, Mr. Villa. I watched him.
13 He's juggling the mask many, many times. So if he's
14 sleeping, I don't know when he's sleeping. Because
15 he's sitting there juggling that mask constantly.
16 He's coughing, and he -- I think with some
17 assistance with some kleenex and stuff. So if he's
18 sleeping, I don't know when it is. He's constantly
19 touching that mask.

20 MR. VILLA: It's not long, Your Honor.
21 He's just having a difficult time keeping himself
22 awake. I agree with the Court, he is awake during
23 times. It's not unconsciousness or anything. But I
24 think it's a result of the severe headache and his
25 illness that he's having a difficult time

1 maintaining being awake 100 percent of the time.

2 THE COURT: Okay. Let's see if we can get
3 him some medicine for his headache.

4 All right. See y'all in about an hour.

5 (Court stood in recess.)

6 THE COURT: All right. We'll go on the
7 record. Anything anybody needs to bring up before
8 we bring the jury in? From the Government? Mr.
9 Castellano?

10 MR. CASTELLANO: No, Your Honor.

11 THE COURT: I added one more thing that I
12 think our instructions need. I'm probably going to
13 need -- if the predicate act or the racketeering act
14 is going to be intent to distribute and possession
15 with intent to distribute, I'm going to need to know
16 what the drugs are. So if y'all remember to tell me
17 what drugs you're going to try to prove beyond a
18 reasonable doubt.

19 Mr. Villa, did you have something you
20 needed to put on?

21 MR. VILLA: Yes, Your Honor. I just want
22 to put on the record that when Mr. Perez had that
23 emergent need to use the restroom today, you know,
24 that's a symptom of the flu, or sickness, whatever
25 it is he's got, he's suffering from. He had to run

1 out through the side door in the courtroom which is,
2 of course, to the marshals' room, and unfortunately
3 that was in front of the jury. So rather than
4 exiting the rear of the courtroom, like we would
5 normally want to have happen, he had to run through
6 the marshal door. So I wanted to put that on the
7 record.

8 THE COURT: Well, he needs to not do that.
9 He was told not to do that. So he'll just have to
10 wait. So don't do that. I watched him go out. You
11 know, nobody could have told anything, because, you
12 know, he walks like he does with the cane. So I
13 think he was okay. But you're right, on the door.
14 But he's got to wait till the jury goes out of the
15 room.

16 MS. ARMIJO: Your Honor, I will note that
17 at some point during this trial, I noticed in front
18 of the jury, Ms. Fox-Young went back there. The
19 door was open, and she went back there. I mean,
20 there was no client there or anybody else. It
21 appeared as if she was talking to somebody. But I
22 remember thinking, well, that's really strange.
23 That door is open, and she's going back there, and
24 it's in front of the jury. It may have been in jury
25 selection. I didn't think anything of it at the

1 time, other than it was just really odd and wondered
2 why she was going back there.

3 MR. LOWRY: Your Honor, I can speak to
4 that really quickly. I know that Mr. Perez is on
5 medication, as is Mr. Baca. And there was one day
6 during proceedings where we were both invited back
7 to that room to get medication for our clients by
8 the marshals.

9 THE COURT: Just be mindful. I mean, I
10 think that we've got the jury out, and Mr. Perez
11 walks with a cane and things, so I don't think
12 anything was noticed about his walking. But he
13 probably ought to not use that door until the jury
14 has cleared the courtroom.

15 We're going to bring the witness up first,
16 so we're going to hold the jurors just for a second
17 to get the witness here.

18 MR. LOWRY: Your Honor, just a point of
19 clarification. Earlier today, we marked as Exhibit
20 EP the overview of the PNM North facility and I've
21 been informed by the staff that this should have
22 been appropriately marked as Exhibit ES.

23 THE COURT: All right. Any objection to
24 making that change, Mr. Beck?

25 MR. BECK: No, Your Honor.

1 THE COURT: All right. Not hearing any
2 from anybody else, then ES will be admitted and EP
3 is not in evidence. It's marked somewhere else. It
4 was marked, but not admitted.

5 (Defendants' Exhibit EP admitted.)

6 THE COURT: All right. Anything else from
7 the defendants? Anything else?

8 MS. ARMIJO: Your Honor, at some point
9 we're going to need a deadline for the defense's
10 response to our statements. As I indicated
11 yesterday, we're moving along quickly and I
12 anticipate that we may even rest our case by the end
13 of next week, potentially. So we only had 72 hours
14 to produce those, so we would like to the Court to
15 set a deadline for any feedback.

16 THE COURT: Could we set a deadline?
17 Because I'll need to build in a little bit of time
18 for me to look at them, too. And like I said when
19 we got them, I glanced at them to sort of get a feel
20 for them, but I'm probably going to need the
21 defendants to point out if there's any problems. Do
22 you want to propose a deadline?

23 MR. VILLA: What about to the Court by
24 Friday, or to the Government by Friday?

25 THE COURT: Why don't you get them to the

1 Government by Friday.

2 MS. ARMIJO: Can we consider that?

3 Because here's the issue. Whatever is going to be
4 redacted, we have to go back and redact the audio
5 and also the transcript, and that's going to take a
6 lot of work. And we could be having witnesses on
7 those as early as Monday.

8 MS. JACKS: Our issue is, we've been going
9 through tens of thousands of late discovery to
10 prepare to cross-examine these informant witnesses.
11 So the defense hasn't exactly had time to sit down
12 and conference about these.

13 THE COURT: What do you propose as a
14 deadline to try to make it work from the
15 Government's standpoint?

16 MR. BECK: I think we could do close of
17 business Thursday, and then we'd have to put off
18 some of our witnesses that may bring it in.

19 THE COURT: I think we're going to have to
20 make it at least Thursday, because I need -- you've
21 got to build me into it, too, if there's going to be
22 disputes. So let's shoot for the end of business on
23 Thursday and see how it goes.

24 MS. DUNCAN: Your Honor, can I propose a
25 compromise? Perhaps if we know the Government's

1 witnesses are coming -- I'm guessing it's Billy
2 Cordova, just on the story. If we could get some of
3 them by the close of business Thursday, and then a
4 second set by the close of business Friday.

5 MR. BECK: I think Gerald Archuleta will
6 be the first one. So yeah, we anticipated him going
7 as early as Thursday, but we can wait on him a
8 little bit. I don't think he has many recordings.
9 And so if we could do those Thursday, close of
10 business Thursday, we can settle those.

11 And it might be prudent just to submit
12 them to the Court, too. I think -- I anticipate --
13 we were pretty liberal in our cutting-out. So I
14 anticipate we won't be agreeing to any further
15 redactions. That's not a bright-line rule, but I
16 just anticipate it. So I think probably submitting
17 them to the Court and to us is a prudent course for
18 us all to take. So if they could do Gerald
19 Archuleta's by Thursday and everyone else's by end
20 of the day Friday. I'm hearing noon Friday, but end
21 of the day Friday, I think that would be fine.

22 MR. MAYNARD: Your Honor.

23 THE COURT: Mr. Maynard.

24 MR. MAYNARD: One issue with respect to
25 the Cordova-Herrera conversations is that some of

1 the conversations -- one of them that's recorded is
2 an hour long. Now, and I've spoken with Mr.
3 Castellano about, well, I hope you're not going to
4 play a whole hour of a rambling conversation.

5 And so I've had a discussion with him
6 about trying to narrow it down to relevant excerpts.
7 But there is a lot of give-and-take and conversation
8 that we have yet to resolve, and we're likely to
9 have some disputes about what's relevant or what's
10 just inflammatory on some other track. So there's a
11 lot of work to work through.

12 THE COURT: Well, it is. And so I have
13 just got to push you. Let's do Archuleta by the end
14 of the day on Thursday, and then everybody else by
15 noon on Friday, because it sounds like if the
16 Government is not going to negotiate anymore, then
17 it's going to be me. So I'm going to have to start
18 looking at those sooner than later. Let's work with
19 those deadlines and try to move it up to me as soon
20 as possible.

21 Do send them to Mr. Beck, though, because
22 I want the Government to take a look at it before I
23 have to start ruling on it.

24 All right. All rise.

25 (The jury entered the courtroom.)

1 THE COURT: All right. Everyone be
2 seated.

3 All right, Mr. Urquizo. I remind you that
4 you're still under oath.

5 Ms. Jacks, if you wish to continue your
6 cross-examination of Mr. Urquizo, you may do so at
7 this time.

8 BY MS. JACKS:

9 Q. Mr. Urquizo, how was your lunch?

10 A. It was okay.

11 Q. You actually were held down in a holding
12 cell downstairs with another Government witness in
13 this case, Mario Rodriguez, weren't you?

14 A. Yes.

15 Q. And you were just down there chatting to
16 him about the questions you were being asked up here
17 in court this morning, weren't you?

18 A. No, I just told him I --

19 Q. You know you're under oath; right?

20 A. Yes.

21 Q. And you know that lockup downstairs isn't
22 private.

23 A. Yeah, I know.

24 Q. So I suggest that you tell the truth to
25 this jury about the conversations you had downstairs

1 with Mr. Rodriguez.

2 A. I didn't have a conversation with
3 Rodriguez. All I did was, when I walked by, I said
4 "Hi," and I just looked at him and said, "Oh, man,
5 it's brutal." That's exactly what I said.

6 Q. Mr. Urquizo, before lunch we were talking
7 about this paperwork you claim to have brought down.
8 And I think you said it had some sort of Las Cruces
9 Police Department logo on it?

10 A. Yes, ma'am.

11 Q. And it had some typewritten information on
12 it?

13 A. Yes, like a police report.

14 Q. And today you said it was one page; right?

15 A. Yeah, it was like one page. Yeah.

16 Q. Well, not "like one page." Was it one
17 page or more than one page?

18 A. One page.

19 Q. Are you positive about that?

20 A. Yes, it was -- well, what we had was one
21 page.

22 Q. Okay. When you first talked about the
23 paperwork with your lawyer and to FBI Agent Acee
24 back on March 6, 2017, you said it was two pages,
25 didn't you?

1 A. If -- I said it might be one or two pages.

2 Q. No. Did you tell Agent Acee that it was
3 two pages? Not "might," not "like," but two pages?

4 A. I said "probably."

5 Q. Probably you did tell him that?

6 A. I said it was probably one or two pages.

7 Q. Did you have -- are you aware that Mr.
8 Calbert testified yesterday?

9 A. Yes.

10 Q. Okay. And are you aware that Mr. Calbert
11 initially testified that the document was one page?

12 A. Okay.

13 Q. And so today you're changing your
14 description from your description in March of 2017
15 to now match Mr. Calbert's, aren't you?

16 A. No, I told you it was one page. Maybe it
17 was one or two pages.

18 Q. But you told Detective Acee back in March
19 of 2017 it was two; right?

20 A. I don't remember. I thought it was one or
21 two pages.

22 Q. You do know to count, Mr. Urquizo?

23 A. Yes, I do.

24 Q. Okay. Now, what did this paperwork
25 supposedly say that Mr. Molina said? Do you

1 remember?

2 A. Yes, more or less. I remember he said
3 that it wasn't him that was involved in that
4 purse-snatching; that there was two other guys with
5 him in the car, and one of the guys he identified
6 was Jesse Sosa. I don't think he identified the
7 other one. I just don't remember the other guy's
8 name.

9 Q. So the statement that you're claiming was
10 on this document is a statement of Javier Molina to
11 the police?

12 A. Yes.

13 Q. Okay. And the crime that you think was
14 involved is a purse-snatching?

15 A. Yes, ma'am.

16 Q. So that's like grabbing a purse off of a
17 lady's shoulder?

18 A. That's exactly what it was; grabbing it
19 from an older woman and taking off running.

20 Q. Without a weapon; just using force only?

21 A. Yes, yes.

22 Q. Exhibit 162, please.

23 You were asked some questions yesterday
24 about the Molina homicide. And I want you to
25 correct me if I'm wrong, but did you say that

1 somehow you could actually see people trying to
2 revive Molina in front of the doors to yellow and
3 blue pod?

4 A. It kind of looked like they had him laid
5 out there.

6 Q. Let me stop you. Answer that question.
7 Did you say that?

8 A. Yes.

9 Q. And at the time that the Molina homicide
10 happened, were you locked in cell 110?

11 A. Yes, ma'am.

12 Q. Okay. So I want you -- okay, yellow pod
13 is the pod in the middle; right?

14 A. Yes, ma'am.

15 Q. And your cell, I think you said, was the
16 second cell closest to where yellow pod and blue pod
17 come together?

18 A. Yes, at the bottom.

19 Q. So I know you can't circle this because
20 you can't reach the monitor, but is this the cell
21 that you were in? I tried to circle it.

22 A. Yes.

23 Q. Okay. And does your cell have a window on
24 it? Does cell 110 have a window on it?

25 A. Yes.

1 Q. Okay. And just so that I'm clear, or it's
2 clear for the jury, this dotted line right here --

3 A. Correct.

4 Q. -- is the wall that divides blue pod from
5 yellow pod; right?

6 A. Yes.

7 Q. Would you agree with me that's a solid
8 wall?

9 A. Yes.

10 Q. So where was your line of sight to people
11 working on Mr. Molina?

12 A. They pulled him out of the pod. I lived
13 in cell 10. It's directly straight to yellow pod's
14 window door.

15 Q. So you're saying you looked out -- you're
16 claiming that you could look out of the door of your
17 cell and look out of the entrance door to yellow
18 pod --

19 A. Um-hum.

20 Q. -- and you could see Mr. Molina lying on
21 the floor?

22 A. You could see the nurse. You could see
23 his feet there.

24 Q. You saw Mr. Molina's feet?

25 A. Well, I'm sure it was his feet. He was

1 right there. Yellow pod and blue pod's door are
2 right next to each other. So when they pulled him
3 out, it was right between it.

4 Q. Are you claiming that the guard and the
5 nurse were working on Mr. Molina somewhere in that
6 red area that I just marked?

7 A. More or less, yes.

8 Q. That's in sort of a hallway that adjoins
9 all three pods?

10 A. Two pods. The other hallway that goes
11 around the circle to go to green pod.

12 Q. So that's what your testimony is?

13 A. Yes.

14 Q. Mr. Villa asked you some questions about a
15 statement you made regarding possibly the weapons
16 coming from a wheelchair program. Do you recall
17 those questions?

18 A. Yes, ma'am.

19 Q. I just want to ask you a couple of
20 questions about the wheelchair program. Can you
21 tell me what that is?

22 A. They had the SNM group building
23 wheelchairs for third-world countries.

24 Q. So like refurbishing used wheelchairs?

25 A. Yes, ma'am.

1 Q. Was that a work assignment for some people
2 in blue, yellow, and green pods?

3 A. Yes, ma'am.

4 Q. And did that also involve working on
5 things like walkers?

6 A. That I don't know. I couldn't tell you.
7 I don't know about that.

8 Q. Okay. You didn't work in the wheelchair
9 program?

10 A. No, so I couldn't say.

11 Q. Were there inmates that were able to bring
12 pieces of metal back from this wheelchair program to
13 fashion into shanks?

14 A. I couldn't say yes or no because I don't
15 know.

16 Q. That's what I'm asking you: Did you know?
17 When you answered Mr. Ryan's (sic) question, I think
18 the answer was that you suggested that possibly the
19 weapons came from the wheelchair program.

20 A. Right.

21 Q. So I'm wanting to know what the basis of
22 that information is. Were you just speculating, or
23 did you have some sort of knowledge about that?

24 A. It's a possibility. You can smuggle it.

25 Q. So you were just speculating that maybe

1 that's the situation?

2 A. On -- yeah, I guess, on one of them, yeah.

3 Q. Okay. Well, it's also true that in the
4 paperwork you read, some of the correctional
5 officers suspected that the weapons were from the
6 wheelchair program; right?

7 A. I didn't actually read all the paperwork.
8 I just read a few pages of certain things. That
9 wasn't one of them.

10 Q. Well, when you suggested to Agent Acee
11 that maybe one of the weapons came from the
12 wheelchair program, that was something you read in
13 somebody else's discovery; right?

14 A. No. Actually, I was told by somebody that
15 one of them came from there.

16 Q. I want to follow up on this discovery
17 situation. So before lunch, you were talking about
18 the fact that you actually were able to see Jerry
19 Montoya's state discovery materials for when he was
20 being prosecuted for the Molina murder here in state
21 court; right?

22 A. Not all pages, but some, yes.

23 Q. You saw some of it. And you read through
24 it.

25 A. Yes.

1 Q. And I think that you also mentioned, at
2 least in your interviews to law enforcement, that
3 you had the opportunity to review some of Timothy
4 Martinez' paperwork.

5 A. From when I was in L pod at the South,
6 yes.

7 Q. Tell me about L pod and who was there with
8 you and Timothy Martinez.

9 A. I don't mean L pod. I mean K pod, 2-A K
10 at the South.

11 Q. Okay. So you were housed with Timothy
12 Martinez in the same pod?

13 A. No. No. I wasn't housed with Timothy
14 Martinez.

15 Q. How was it that you were able to see
16 Timothy Martinez' paperwork?

17 A. Jerry Montoya had a few sheets of paper
18 that he sent to me of Timothy Martinez and Jerry
19 Armenta.

20 Q. So when you were referring to Timothy
21 Martinez' paperwork in your interviews with the FBI,
22 it was actually Jerry Montoya's paperwork about
23 Timothy Martinez? Is that what you're saying?

24 A. Yeah, pretty much on that.

25 Q. Well, not pretty much.

1 A. Yes, on that. But also on the FBI
2 indictments that the paperwork got there to 2-A K
3 pod.

4 Q. So you read the indictments in the case.

5 A. Yes, they were sent to Ron Sanchez from
6 Dan Dan's lawyer.

7 Q. You just hissed again. You think that's
8 me?

9 A. Daniel Sanchez's lawyer.

10 Q. You think Daniel Sanchez only has one
11 lawyer?

12 A. I don't know.

13 Q. Let me ask you this. Are you aware that
14 Daniel Sanchez has habeas corpus proceedings that
15 were pending at the time --

16 A. Yes.

17 Q. -- in state court?

18 A. Yes, ma'am, I am.

19 Q. And are you aware that he had lawyers on
20 that case?

21 A. Yes, I am. That's why I said lawyer. I
22 don't know which lawyer he did have.

23 Q. But you got some paperwork -- or you got
24 the indictments from Ronald Sanchez?

25 A. Yes.

1 Q. And you were able to read that?

2 A. Yes.

3 Q. And indictments in this case are public
4 record; correct?

5 A. I guess so.

6 Q. Anybody can pull it off the computer;
7 right?

8 A. I'm not sure.

9 Q. You've never had somebody pull court
10 records off a computer for you?

11 A. Not indictments like that, no.

12 Q. You also testified that you were housed
13 with some other people who were working as
14 Government witnesses; right?

15 A. Right.

16 Q. And I think you listed those as -- was it
17 Tomas Clark?

18 A. I didn't know he was even working with
19 them, but I was with Tomas Clark, yes.

20 Q. Who else?

21 A. I just met with him just in that pod.
22 Then I got moved to X pod, and it was Javier Rubio,
23 Billy Cordova, and eventually it was Robert Martinez
24 and Flaco -- or Fred Quintana.

25 Q. And was this during the period of time

1 that you were also working as a Government witness?

2 A. Yes.

3 Q. And one of the things I think we've heard
4 about is that when you're working as a Government
5 witness, you get better conditions of confinement.

6 A. Yes. I guess, yes.

7 Q. You're not locked in your cell 23 hours a
8 day, seven days a week?

9 A. Actually, I was.

10 Q. Did you have tier time when you were
11 housed with those individuals you just named?

12 A. No.

13 Q. So you were able to confer with them when
14 either you would go out of your cell and you were
15 able to talk to them through their cell door?

16 A. I wasn't -- nobody in that pod came out.
17 It was already locked down.

18 Q. Okay. Were you able to talk with those
19 individuals in any way whatsoever?

20 A. Maybe here and there with Robert Martinez,
21 because he was a little closer to me upstairs where
22 I live. But everybody else, no, because there was
23 other individuals there that didn't know what was
24 going on so we didn't want to throw it out there.

25 Q. So you talked with Robert Martinez, like,

1 through the vents that connected your two cells?

2 A. No, I lived in cell 8, and he lived in
3 cell 10, so there was a cell between us. So once in
4 a while we'd make little comments where just me and
5 him understood what we were talking about.

6 Q. That would be through the vents that
7 connect the cells?

8 A. No, through the doors.

9 Q. How?

10 A. Through the doors.

11 Q. Through the door.

12 A. Yes.

13 Q. Did you talk to other inmates through the
14 vents, either the vents that go from the lower cell
15 to the upper yell, or the vents that go along the
16 bottom of the cell?

17 A. I wasn't connected to nobody that was
18 helping through the vents.

19 Q. We know that you talked to David Calbert
20 when you went to the FBI office in August of 2017;
21 right?

22 A. Yes, ma'am.

23 Q. And the purpose of you being permitted to
24 talk to Calbert was to try to convince him to sign
25 up for the Government's witness program; right?

1 A. Well, he was already thinking about it,
2 but maybe if he seen that I was doing it, maybe it
3 would help a little bit, so...

4 Q. How did you know he was already thinking
5 about it, or is that something he told you?

6 A. Yeah, he told me afterwards.

7 Q. Okay. So that's something he told you.

8 But at the time, when that meeting was set
9 up, that was actually set up for your benefit,
10 right, at least in part?

11 A. I guess. I didn't know until the last
12 minute before I was leaving.

13 Q. But you were told by the Government that
14 if you were able to recruit David Calbert, you'd get
15 some time shaved off your sentence.

16 A. Actually, I wasn't told by the Government.
17 There was other individuals that were helping out
18 the Government told me about it. So that's how that
19 came about actually.

20 Q. Okay. So you learned about that from
21 other Government witnesses?

22 A. Yes.

23 Q. And who were those Government witnesses
24 that told you that if you recruited somebody else,
25 that you'd get brownie points for that?

1 A. Robert Martinez; and I think I know Fred
2 Quintana. Those are the two.

3 Q. Some of the guys that you were housed with
4 for a while?

5 A. Yes.

6 Q. When you met with Mr. Calbert in the FBI
7 office, did you tell him that you were making a
8 decision to become a Government witness?

9 A. Yes. I told him I had just decided to
10 give everything up, and I was going to help him out,
11 yes.

12 Q. You told him you were making the decision
13 to become a Government witnesses? Yes or no?

14 A. I had made a decision.

15 Q. Had.

16 A. Yes.

17 Q. And did you tell him about all the
18 different benefits that you were getting once you
19 signed up to become a Government witness?

20 A. No.

21 Q. You didn't say a thing about that?

22 A. No.

23 Q. Did you tell him the story that you were
24 going to tell -- that you had told the Government
25 was that you had brought the paperwork down and that

1 you had said he provided it?

2 A. I told him the truth, how it got there.

3 Q. My question is: Did you tell him that?

4 Did you tell him that you had involved him, that you
5 had told the Government that he gave you the
6 paperwork?

7 A. I told him the truth, if that's what
8 you're trying to say then. Yes, as in the truth,
9 yes.

10 Q. Okay. Did you mention to Mr. Calbert
11 during that meeting that you had put his name out
12 there as the person that had given you the
13 paperwork?

14 A. Yes.

15 Q. Because what you didn't want was for him
16 to go in and say something different to the
17 Government; right?

18 A. No. That's not right.

19 Q. Let's talk about the benefits that you've
20 gotten, because I think you testified yesterday that
21 you'd gotten about \$300.

22 A. Somewhere. I don't know.

23 Q. That's not really true; right?

24 A. Well, I really don't know exactly how much
25 I got.

1 Q. You really don't? Don't you spend that
2 money on commissary and phone calls --

3 A. Yeah.

4 Q. -- and try to give some to your family?

5 A. I also get money from my family, too,
6 so --

7 Q. So you don't know which money is from your
8 family and which money is from the federal
9 government?

10 A. I know. What I'm saying is that I had
11 money on my books. There's times I didn't really
12 check, oh, this is how much I got, this and that.

13 Q. The truth is, Mr. Urquizo, that you've
14 gotten at least \$600 from the federal government;
15 right?

16 A. Okay.

17 Q. Well, is that the truth or is it not the
18 truth?

19 A. No. It is, okay, 600.

20 Q. You don't even know what the truth is.

21 A. Of course I do.

22 MR. BECK: Object --

23 THE COURT: Sustained. Don't comment on
24 the evidence. There will be argument.

25

1 BY MS. JACKS:

2 Q. Mr. Urquizo, have you also been provided
3 contact visits with your family members?

4 A. With my wife one time, yes.

5 Q. Just once?

6 A. Yes.

7 Q. And I think you were asked -- one of the
8 other benefits you talked about is, you started
9 getting more telephone calls; right?

10 A. Yeah, unlimited phone calls. So yes.

11 Q. More frequent access to the phone.

12 A. Yes.

13 Q. You made a little face there when you
14 answered that. Is that -- that's not really true,
15 or --

16 A. No, the reason is because before I went
17 that way, I was already getting unlimited phone
18 calls. I was Level 4. So it's the same thing. I
19 was already getting unlimited phone calls.

20 Q. The truth is that you got so many calls
21 that you started letting other inmates use your
22 calling number to call their friends and family.

23 A. No.

24 Q. That's a lie?

25 A. No, that's not why.

1 Q. I said: That's a lie? You did not --

2 A. What's a lie?

3 Q. You did not provide your -- let me ask the
4 question so that we can be very clear. Did you
5 provide your PIN number to other inmates so they
6 could use some of the phone calls that you've been
7 provided?

8 A. Yeah, I loaned my PIN number a few times.

9 Q. And the other benefits you're getting is,
10 you're getting a federal sentence that runs
11 concurrent with your state sentence?

12 A. That's what we're hoping, yes.

13 Q. And you're hoping for a sentence in
14 federal court of less than 20 years.

15 A. Yes.

16 Q. And you're also hoping to be transferred
17 to a federal prison that has better confinement
18 conditions than the State of New Mexico?

19 A. Yes.

20 Q. The sentence that you're currently doing
21 in the State of New Mexico is how long?

22 A. I believe it's a 28-year sentence.

23 Q. And how many years of the 28 years have
24 you done?

25 A. Since 2008.

1 Q. Okay. So about ten?

2 A. Yes.

3 Q. So you have roughly 18 years left?

4 A. With good time and all that.

5 Q. So what Mr. Villa asked you was, in fact,
6 true: That -- well, even if you get the maximum,
7 the maximum federal sentence for what you pled
8 guilty to is 20 years; right?

9 A. Yes.

10 Q. So even if you get the maximum federal
11 sentence for what you were permitted to plead guilty
12 to by the Government, you won't do a day longer than
13 your state sentence.

14 A. Probably.

15 Q. And the other benefit you got was not to
16 be charged with a case that carried a life sentence
17 or the death penalty; right?

18 A. Right.

19 Q. So are those benefits important to you?

20 A. Well, sure. I mean, my life is in danger
21 now, of course.

22 Q. Well, do you think the Government is
23 giving you those benefits in recognition for the
24 testimony that you're providing here today on their
25 behalf?

1 A. Well, yes, they're helping me out, because
2 I'm doing what I'm doing, yes.

3 Q. Okay, now back on February 2 -- I think
4 Mr. Beck asked you some questions about this, but I
5 just want to go back to this for a second. Back on
6 February 2, you refused to get out of your cell;
7 right?

8 A. Correct.

9 Q. And you refused to be transported?

10 A. Yes, ma'am.

11 Q. And you refused to get out of your cell
12 and be transported because you didn't like where you
13 were going to be housed at the end of the transport.

14 A. Yes.

15 Q. And you didn't want to miss the Super
16 Bowl.

17 A. That's not necessarily why.

18 Q. Well, did you tell the people who
19 responded to try to talk you into getting out of
20 your cell and into getting on the transport that one
21 of the reasons you were refusing is because you
22 didn't want to miss the Super Bowl?

23 A. No, I didn't have a TV. The TV was lost.

24 Q. Did you refuse because you weren't getting
25 what you wanted?

1 A. No, I refused because I was in Otero
2 County for three months, and I went to Santa Fe for
3 five days, and then they were sending me back to
4 Otero County.

5 Q. So it was just too much travel?

6 A. No, I just wanted to stay in Santa Fe.

7 Q. When you refused, did you tell people that
8 everything is off the table?

9 A. Yes.

10 Q. Did you tell people that you're going to
11 turn the case upside down?

12 A. Yes.

13 Q. And that because you didn't like the way
14 you were being treated, you were going to back out
15 of testifying?

16 A. Yes.

17 Q. So in your mind, Mr. Urquizo, if you don't
18 get what you want, you're not going to say what they
19 want.

20 A. It's not what they want. It's the truth.
21 I just wasn't going to say the truth.

22 MS. JACKS: I have nothing further.

23 THE COURT: Thank you, Ms. Jacks.

24 Mr. Beck, do you have --

25 MS. JACKS: I do have -- I'm sorry, Your

1 Honor, I have three certified copies of judgments
2 that I'd like to mark and enter at this time. And I
3 provided them to the Government yesterday.

4 MR. BECK: No objection, Your Honor.

5 THE COURT: Let's get the --

6 MS. JACKS: So these are going to be
7 marked AN 1 through 3. Number 1 is from September
8 14, 1998. Number 2 is from December 16 of 2003.
9 And number 3 is from January 20 of 2010.

10 THE COURT: Any objections to those, Mr.
11 Beck?

12 MR. BECK: I just -- no objection. I just
13 want to make sure they're properly redacted. No
14 objections.

15 THE COURT: Any other defendant have any
16 objections? Not hearing any, Defendants' Exhibit AN
17 1 through 3 will be admitted into evidence.

18 (Defendants' Exhibits AN 1 through 3
19 admitted.)

20 THE COURT: All right. Mr. Beck, do you
21 have redirect of Mr. Urquizo?

22 MR. BECK: Yes, Your Honor, thank you.

23 THE COURT: Mr. Beck.

24

25

1 REDIRECT EXAMINATION

2 BY MR. BECK:

3 Q. Mr. Urquizo, I think you were cut off a
4 few times. I think you were trying to explain why
5 you didn't tell Ms. Jacks the truth about why you
6 passed the paperwork.

7 A. Yes. I didn't want to be involved in this
8 whole thing, because if that came out, my life would
9 in jeopardy, because I was still an active SNM Gang
10 member.

11 Q. Have you ever testified before, Mr.
12 Urquizo?

13 A. No.

14 Q. Have you ever been cross-examined before?

15 A. In a trial before, for me, yes; but not,
16 like, helping out or anything.

17 Q. And why is that?

18 A. Because that's against the law, against
19 our law, that you don't do that. That's pretty much
20 snitching. You're not allowed to help out at all.

21 Q. Mr. Urquizo, why didn't you want to go
22 back to Otero County?

23 A. Because I was there in Otero County for
24 three months. Then I was sent to Santa Fe. While I
25 was gone -- when I got in Santa Fe, all my stuff was

1 missing. Nobody knows what happened to it. So the
2 little belongings that I did have, I didn't want to
3 lose them again. I was in Santa Fe for, like, five
4 days, and I didn't want to go back. And it felt
5 like I was being mistreated by the Corrections
6 Department as it was already. That's why I didn't
7 want to go until I talked to Captain Sapien about
8 what was going on.

9 If I was told that I was going to court, I
10 would have come right away. But I wasn't told that.

11 Q. Were you threatened at Otero County last
12 time you were there?

13 A. Yes. There's another person that's on the
14 case or a different case, whatever, and started make
15 remarks, saying there's another FBI informant right
16 there, and started disrespecting and saying that
17 Dan Dan and Sanchez and Carlos Herrera came back
18 from court and said, "All you FBI informants need to
19 stop doing what you're doing. Have some respect for
20 each other and stop doing what you're doing."

21 Q. And who was that?

22 A. Edward Troup.

23 Q. And is he an SNM member?

24 A. Yes, sir.

25 Q. Now, I think you went through several --

1 with several defense attorneys you went through the
2 reports in this matter and previous times that you
3 debriefed with the Government. Do you remember
4 that?

5 A. Yes, sir.

6 Q. During those debriefs, did you answer the
7 questions that were asked of you?

8 A. Yes, sir.

9 Q. Now, yesterday you and I discussed
10 testifying here today. How many times did we meet
11 to prepare for your testimony?

12 A. I think two times.

13 Q. How many?

14 A. I think two times.

15 Q. Okay. If I told you three, would that
16 be -- would that surprise you?

17 A. Yeah, I think -- yeah.

18 Q. So it's possible we met three times?

19 A. Yes.

20 Q. And today and yesterday, after meeting
21 three times, did you have a better idea what I was
22 going to ask you about yesterday?

23 A. A little bit, yes.

24 Q. And did you prepare in your mind to
25 testify yesterday after we met?

1 A. Yes.

2 Q. Were you better prepared to testify
3 yesterday than you were for the questions at all
4 your debriefs?

5 A. Yes.

6 Q. Now, I think you testified with Ms. Jacks
7 she came to see you before Mr. Acee did for the
8 Government?

9 A. Yes, sir.

10 Q. Did she come to see you -- and I think she
11 said May of 2016?

12 A. Yes, sir.

13 Q. And when was the first time the Government
14 came and told you you were involved in the case?

15 A. February 24, 2017.

16 Q. So is that almost a year later?

17 A. Yes.

18 Q. And I think on one of the phone calls we
19 heard about Wild Bill's attorney.

20 A. Yes.

21 Q. Who is Wild Bill?

22 A. Billy Garcia.

23 Q. Is that another SNM member?

24 A. Yes, he's another SNM Gang leader,
25 actually.

1 Q. Do you know if he's been charged with any
2 federal crimes?

3 A. Yes, sir.

4 Q. And was that before Special Agent Acee
5 came and visited you?

6 A. Yes, sir, right after Ms. Jacks came and
7 visited. That's when Wild Bill's attorney came to
8 visit me, too.

9 Q. Did he ask you if you passed the
10 paperwork?

11 A. Yes.

12 Q. And did you tell him the truth, that you
13 did?

14 A. No, I told him I did it, and I didn't want
15 to be part of none of that stuff. I only talked to
16 him briefly, like five minutes. I told him I didn't
17 really want to be involved in this anymore.

18 MR. BECK: Ms. Standridge, will you turn
19 on the Elmo, please? And is Exhibit EQ admitted?

20 THE CLERK: Yes.

21 BY MR. BECK:

22 Q. Mr. Urquizo, I'm showing you what's been
23 admitted as Exhibit EQ.

24 THE COURT: EQ has been admitted.

25 Q. Do you recognize this exhibit?

1 A. Yes, sir.

2 Q. I'm going to zoom in on the top. Is that
3 your handwriting that says Q and R?

4 A. Yes, sir.

5 Q. And I think you testified that you said
6 when you talked to Mr. Baca, he was in Q pod?

7 A. Yes, sir.

8 Q. Is that here on the left where you marked
9 Q?

10 A. Yes.

11 Q. All right. And up here, just above Q, I'm
12 circling at the top left of that screen in the dark
13 area, is that the cage that you were in?

14 A. Yes. It's actually a whole cage. All the
15 way from the whole front end, that's a big cage.
16 It's a handball court, so it's actually a whole
17 cage.

18 Q. Let me see if I can clear this again
19 without Ms. Standridge's help.

20 A. All windows on Q pod are facing that cage.

21 Q. So now I circled that whole dark-black
22 area. Is that one --

23 A. What I mean is, you see there is a first
24 cage and there is like a hall right there? The left
25 side, where Q pod -- the whole part of Q pod, that's

1 a cage right there. Yes, there you go.

2 Q. This whole rectangular area, the dark
3 area?

4 A. Yes.

5 Q. So is that the cage that you were in?

6 A. Yes, sir.

7 Q. And Mr. Baca, again, was just right there
8 when you marked Q; is that right?

9 A. No, he was in Q106.

10 Q. Where is that? On the left side, the
11 middle?

12 A. Going towards R pod, the last cell.

13 Q. So that area at the top right?

14 A. It's a little bit more to your left, but
15 pretty much right there.

16 Q. Okay. And you said you believe your first
17 conversation with Mr. Baca was in the summer of
18 2012; is that right?

19 A. Around August of 2012.

20 MR. BECK: Your Honor, I'm going to show
21 the witness what's been previously identified as
22 Government's Exhibits 748 and 747. I learned that
23 Exhibit 748 has already been admitted as Defense
24 V-24. And Exhibit 747 is the same as Defendants'
25 Exhibit Z-4.

1 THE COURT: Do you want to move your
2 exhibits?

3 MR. BECK: I do. I'll move to admit
4 Government's Exhibits 747 and 748.

5 THE COURT: Any defendant have any
6 objection? Not hearing any, then Government's
7 Exhibits 747 and 748 will be admitted into evidence.

8 (Government Exhibits 747 and 748
9 admitted.)

10 BY MR. BECK:

11 Q. All right. Mr. Urquizo, I think you were
12 shown this on cross-examination at some point. Do
13 you recognize this to be your physical location
14 history?

15 A. Yes, it looks like it, yes.

16 Q. And I'm going to go down here to the
17 middle of the first page of Government's Exhibit
18 748. And I pressed the wrong button. But I'll get
19 out of here.

20 Now, directing your attention to the
21 middle of that page, where it says 9/12/2011, where
22 were you housed September 12 of 2011?

23 A. In W105. At the north. 3-B W105.

24 Q. North?

25 A. Yeah.

1 Q. And then the line above that, it looks
2 like maybe you were moved later that afternoon to
3 another pod in the north?

4 A. Yes, I went to V107, to north 3-B would be
5 107.

6 Q. Then it looks like --

7 A. I was transported to the South.

8 Q. When were you transported to the South?

9 A. 9/27/2012.

10 Q. So is that September of 2012?

11 A. Yes.

12 Q. I'm showing you now what's been admitted
13 as Government's Exhibit 747. Is that the physical
14 location history of Anthony Ray Baca?

15 A. That's what it says on the top, yes.

16 Q. And now I'm showing you the summer of
17 2012. And in the summer of 2012 was Mr. Baca
18 housed --

19 A. North, 3-A, Q106.

20 Q. And is that where you told me earlier you
21 talked to him when he was in Q pod?

22 A. Yes, sir.

23 MR. BECK: Do you have Exhibit EO, the
24 letter? Is that around here somewhere?

25 THE COURT: Ms. Jacks, do you have EO?

1 MS. JACKS: EO?

2 THE COURT: That was Ms. Bhalla, I guess,
3 that had EO.

4 MS. BHALLA: Your Honor, I think we left
5 it up there. I can double-check.

6 I'm sorry, Your Honor, I have it. Sorry.
7 BY MR. BECK:

8 Q. Ms. Urquizo, I'm showing you what was
9 admitted with Ms. Bhalla as Defendants' Exhibit EO.
10 This is the letter that we stipulated was found in
11 your cell. But you didn't recognize that as your
12 handwriting?

13 A. No, sir.

14 Q. Is that right?

15 A. That's right.

16 Q. And before it was presented to you and
17 told to you that it was in your cell, had you seen
18 that letter before?

19 A. No.

20 MR. BECK: Your Honor, I'm going to
21 approach with Government's Exhibit 749 and
22 Government's Exhibit 750.

23 MR. VILLA: May we approach, Your Honor?

24 THE COURT: You may.

25 (The following proceedings were held at

1 the bench.)

2 MR. VILLA: Your Honor, we've never seen
3 these letters before. And according to Mr. Beck,
4 they just received them.

5 MR. BECK: I was handed them yesterday by
6 Mr. Urquizo's counsel.

7 THE COURT: Who is that?

8 MR. BECK: Rosanne Camunez.

9 MR. VILLA: Could we take a minute to read
10 them?

11 THE COURT: What are you going to do? Try
12 to introduce them?

13 MR. BECK: No, I'm just going to ask if he
14 wrote this one and then look and compare that to the
15 handwriting that was found in his cell.

16 MR. VILLA: He already denied that he
17 wrote the letter in his cell. So what the relevance
18 of this would be --

19 MS. BHALLA: He also denied that he even
20 knew it was in his cell. And the other day I
21 believe it was the first time he'd seen it, Your
22 Honor, so --

23 MR. BECK: Then the letter was admitted
24 into evidence, shown to the jury. He said it's not
25 his handwriting, so I'm hoping to explain this is

1 his handwriting -- he said it was "pretty" -- and
2 ask him if that looks similar to the letter in the
3 cell.

4 THE COURT: Well, if it's not going to be
5 introduced, let's just take it a question at a time.
6 We're not here to surprise anybody. We can
7 reconvene, but I think this is proper here.

8 MR. VILLA: A separate issue: Mr.
9 Santiago Hernandez, who is the attorney for Mario
10 Rodriguez, is in the courtroom. And I think under
11 the rule of exclusion, he ought to be excluded. I
12 think the attorney has a duty to talk to his client
13 about anything and everything, and --

14 THE COURT: I think what we've been
15 doing -- we've had a lot of attorneys come in and
16 out -- caution them not to talk to him. Who is
17 Mario's attorney?

18 MR. BECK: Mr. Hernandez. It's the
19 gentleman in the white shirt and the black tie on
20 the left there. I think the second row.

21 (In open court.)

22 THE COURT: Mr. Hernandez. (Motions.)

23 (The following proceedings were held at
24 the bench.)

25 MR. VILLA: For the record, I appreciate

1 the Court cautioning him. But I think he's got a
2 duty to talk to his client. And I don't think,
3 quite frankly, we can tell him not to.

4 THE COURT: Well, we'll see. If he can't
5 agree to it, then he'll step out.

6 MR. HERNANDEZ: Yes, sir.

7 THE COURT: How are you doing, Mr.
8 Hernandez?

9 MR. HERNANDEZ: Good, Your Honor.

10 THE COURT: I guess there is some concern,
11 with you sitting here in the courtroom, that you
12 need to talk to your client and talk to him about
13 what's being said here. I guess I can approach it
14 two ways. One is, I can get an assurance from you
15 that you will not talk and be a conduit of what's
16 taking place here to your client. If you feel, on
17 the other hand, that, no, you need to talk to your
18 client about what's going on in here, then I
19 understand that, and just ask you -- I'll invoke the
20 rule and ask you to step outside.

21 MR. HERNANDEZ: Your Honor, I can assure
22 you that I will not talk to my client. But if you
23 prefer that I wait outside, I can do that also.

24 THE COURT: I don't have a preference. I
25 think the defendants have a preference, but I don't

1 have a preference, if you give me your word that you
2 won't be a conduit and won't relay what's being done
3 or said here in the courtroom.

4 MR. HERNANDEZ: You have my word, Your
5 Honor, yes.

6 THE COURT: So you can remain. But just
7 don't be a conduit for what's going on in here.

8 MR. HERNANDEZ: Yes, sir.

9 THE COURT: Thank you, Mr. Hernandez.

10 (Mr. Hernandez left the bench.)

11 THE COURT: All right. Well, let's take a
12 question at a time. If we need to reconvene -- but
13 I think as far as just the signatures or the
14 handwriting, I think that's probably appropriate.

15 MR. BECK: And Your Honor, I intend to put
16 this on the overhead so that he can compare in front
17 of the jury.

18 MR. LOWRY: Can we get copies?

19 MR. BECK: I think I've got another copy.
20 I don't think I have enough copies.

21 THE COURT: Do you have something there?
22 That's fairly innocuous so that we can just use it
23 as an exemplar, rather than --

24 MR. BECK: Yeah. I just intend to kind of
25 show him the front page and show him the last page

1 and show him the envelope here.

2 THE COURT: Is any of that substantive?

3 MR. BECK: No, no.

4 THE COURT: All right. Okay.

5 MR. BECK: And then he talks about not
6 trusting us, the attorneys for the United States.
7 But I just intend to --

8 THE COURT: That one has already been
9 admitted?

10 MR. BECK: This one has not. I just
11 intend to ask him if this is his handwriting and
12 signature. I don't intend to elicit any of the
13 statements.

14 MR. VILLA: Your Honor, if it's signed by
15 Mr. Urquizo and he says he doesn't trust the
16 Government, I would argue it's Giglio. We have a
17 chance to review it and cross-examine him on it. If
18 Mr. Beck had this yesterday, we should have been
19 produced a copy yesterday.

20 MR. BECK: I disagree. I don't think so.
21 But --

22 THE COURT: Well, you'll get a copy of it
23 and we'll figure out what to do with it. I'd have
24 to think about it to figure out if it's useful to
25 you in any way.

1 MR. VILLA: Obviously, we have to read it,
2 which we haven't had a chance to.

3 MR. BECK: I do have copies of this
4 letter.

5 THE COURT: Try not to put anything up
6 there that they can look at very long.

7 MR. BECK: Sure.

8 (The following proceedings were held in
9 open court.)

10 THE COURT: Mr. Beck.

11 BY MR. BECK:

12 Q. Mr. Urquizo, I'm showing you what's been
13 admitted as Government's Exhibit EO, and now I'm
14 showing you what's been marked for identification
15 purposes --

16 THE COURT: Mr. Beck, I believe that's
17 Defendants' Exhibit --

18 MR. BECK: Sorry, Your Honor.

19 BY MR. BECK:

20 Q. Defendants' Exhibit EO. And now I'm
21 showing you what's been marked for identification
22 purposes as Government's Exhibit 749. Do you
23 recognize the handwriting in Government's Exhibit
24 749?

25 A. Yes, sir. That's my writing.

1 Q. And is that your name at the top, Lupe
2 Urquizo?

3 A. Yes, sir.

4 Q. And on page 3, is that your signature,
5 Lupe Urquizo, at the bottom?

6 A. Yes, sir.

7 Q. Did you write this letter?

8 A. Yes, I did.

9 Q. Who is this letter to?

10 A. My lawyer.

11 Q. And I'm showing you again Defendants'
12 Exhibit EO. Is that your handwriting?

13 A. No.

14 Q. All right. I'm now showing you what's
15 been marked for identification purposes as Exhibit
16 750. Is that your handwriting?

17 A. No.

18 Q. And I'm showing you what's the last page
19 of the yellow. Does that say "Kriminal"?

20 A. Yes, it says "Kriminal."

21 Q. Have you ever gone by the name or moniker
22 Kriminal?

23 A. No, sir.

24 Q. Do you know anyone in SNM that does?

25 A. Not an SNMer, but a guy from Albuquerque

1 named Kevin Folse.

2 Q. At any time have you been housed with a
3 guy from Albuquerque known as Kevin Folse?

4 A. Yes, sir. I was housed with him briefly
5 in W pod. And then I was moved to T pod and I was
6 the porter, and he was the porter in 3-B. And they
7 were allowed to go to my side and we would all kick
8 it in my cell. There was about four people: Me,
9 Kevin Folse, Timothy Martinez, and Fred Quintana.

10 Q. And now I'm going to show you Defendants'
11 Exhibit EO. And do you see where it says "legal
12 mail" in quotation marks there?

13 A. Yes, sir.

14 Q. I'm going to show you the envelope for
15 Government's Exhibit 750, and do you see where that
16 says "legal mail"?

17 A. Yes, sir.

18 Q. Does that look similar to you as to what's
19 in Defendants' Exhibit EO?

20 MR. VILLA: Objection, Your Honor. He
21 can't compare the handwriting. He can testify if he
22 knows somebody named Kriminal. He can't compare the
23 handwriting.

24 THE COURT: I agree with that. Sustained.
25

1 BY MR. BECK:

2 Q. And I think you said you know a Kriminal
3 as Kevin Folse; is that right?

4 A. Yes.

5 Q. And does this envelope say it's from Kevin
6 Joseph Folse?

7 A. Yes, sir, it does.

8 Q. When you were talking with Ms. Jacks, I
9 think she asked you if you talked to Mr. Calbert on
10 August 22, 2017, because you didn't want him to say
11 something different. Do you remember that?

12 A. Do I remember what she asked me?

13 Q. Do you remember her asking you that?

14 A. Yes, sir.

15 Q. And did you talk to Mr. Calbert on August
16 22, 2017?

17 A. Yes, sir, I did.

18 Q. Did you try to help him decide to
19 cooperate with the Government that day?

20 A. Yes, I did. I told him I was pretty much
21 over it, and we should just let it go. I did. And
22 he wanted to. He just wanted to see if I was really
23 doing it. Once he seen I was, he said, "Okay."

24 Q. Did you tell him that you told the truth
25 about the Javier Molina case?

1 A. Yes, sir, I did.

2 Q. Did you also tell him that you wanted him
3 to cooperate so you wouldn't have to testify against
4 him?

5 A. Yes, sir. He's my best friend.

6 Q. When you were housed with the other, as
7 I'm going to call them, cooperating witnesses for
8 the Government, did they have tablets with discovery
9 on them?

10 A. No.

11 Q. Have you ever seen discovery on a tablet?

12 A. No, sir.

13 Q. When you were talking with Ms. Bhalla, Mr.
14 Herrera's attorney, I think she asked you about your
15 plea agreement with the Government. Do you remember
16 that?

17 A. Yes, sir.

18 Q. And she asked you if you remembered that
19 you were charged with 39 overt acts. Do you
20 remember that?

21 A. Yes, sir.

22 Q. Do you remember when she said that you
23 only pled to one count?

24 A. Yes, sir.

25 MR. BECK: Your Honor, may we approach?

1 THE COURT: You may.

2 (The following proceedings were held at
3 the bench.)

4 MR. BECK: Your Honor, I intend to offer
5 into evidence Government's Exhibit 742-B, which is
6 Mr. Urquizo's plea agreement. And the only thing
7 redacted in this plea agreement is Ms. Cam Munoz'
8 preamble to her signature at the end. The factual
9 basis from his plea agreement is not redacted
10 because it will show that he indeed pled guilty to
11 everything that was contained in the 39 overt acts.

12 THE COURT: Any objection?

13 MR. LOWRY: Yes, I thought we had an
14 agreement on the plea agreements that we were going
15 to redact factual basis. I mean, Defendant Baca
16 didn't go there and pull it out.

17 THE COURT: Well, it does seem to me that
18 it's being offered for the truth. Then it would
19 be -- are you trying to clear up the line of
20 questioning whether there were overt acts and
21 whether there was only one count that he pled to?
22 Is that what you're trying --

23 MR. BECK: I am, Your Honor. I'm also
24 trying to clear up the record. I think what
25 happened is, Ms. Bhalla used this plea agreement as

1 both the sword and the shield to create the
2 impression that there were many things that he was
3 charged with and he pled guilty to only one count,
4 and that's inaccurate. That's misleading the jury
5 as to what happened in this case.

6 THE COURT: I guess what I'd like to do is
7 see if we can clear that up without necessarily the
8 plea agreement coming in. Do you have another
9 suggestion? Could you put it in front of him and
10 lead him through it and say, "Are those all the
11 charges and you pled to every one of them,"
12 something along those lines rather than the plea
13 agreement coming in?

14 MR. BECK: I can do that, Your Honor. I
15 can ask him.

16 THE COURT: I'm going to give Mr. Beck a
17 little leeway. He can probably lead it just so
18 there is not a misimpression, but try to keep the
19 plea agreement out. We did agree how those would
20 come in. I think you'll be able to clear up the
21 record.

22 MR. BECK: I think the agreement, Your
23 Honor, was that they wouldn't come in unless the
24 door was opened.

25 THE COURT: Yeah. Let's try to not open

1 the door. Let's see if we can just clean it up
2 without opening the door to it.

3 MS. BHALLA: And I apologize for that. I
4 think what I was trying to indicate was the
5 difference between a plea agreement and overt acts,
6 and I don't think I did a very good job doing it.

7 THE COURT: Reference your question
8 specifically. And Ms. Bhalla, you can kind of do
9 what you want on this, but see if we can keep the
10 plea agreement out.

11 MR. BECK: Your Honor, what I could do
12 instead is, I could offer the Information into
13 evidence, which is the charge, and I can bring that
14 out; but it's a charge he pled guilty to, and walk
15 through the 39 overt acts and ask if he pled to
16 those.

17 THE COURT: Do you have any problem with
18 that?

19 MS. BHALLA: I think it's going around the
20 door and getting in the same evidence that we want
21 to keep out.

22 THE COURT: It probably is. Let's just
23 see if you can walk it through. I think you'll be
24 able to clean it up sufficiently. Let me ask this.
25 Are you done with those letters?

1 MR. BECK: Yes, Your Honor.

2 THE COURT: Ms. Standridge, Mr. Beck is
3 going to give you -- it's just one letter, or is it
4 two?

5 MR. BECK: Two letters.

6 THE COURT: Would you make five copies for
7 the defense lawyers? Is that okay? Do you have
8 them with you?

9 MR. BECK: I do.

10 MS. BHALLA: I can stipulate that the
11 overt acts are complained in the plea agreement, if
12 that helps clean up the record.

13 THE COURT: Okay. You might turn around
14 and do that.

15 MR. BECK: I think I'll clear it up with
16 the questioning, Your Honor.

17 THE COURT: If you want to stand up and
18 stipulate, that's fine. And he can accept it or
19 not.

20 MS. BHALLA: Thank you, Your Honor.

21 THE COURT: Mr. Beck.

22 (The following proceedings were held in
23 open court.)

24 THE COURT: All right, Mr. Beck.

25 MR. BECK: May I approach the witness,

1 Your Honor?

2 THE COURT: You may.

3 BY MR. BECK:

4 Q. Mr. Urquizo, I'm handing you what's been
5 marked for identification purposes as Government's
6 Exhibit 742-B. Do you recognize that document?

7 A. Yes, sir.

8 Q. What is that?

9 A. That's my plea agreement.

10 Q. And I'm going to direct your attention to
11 pages 4 through 8, and I'll ask you to look at those
12 pages and count the number of paragraphs on those
13 pages.

14 A. Okay. 40.

15 Q. So Mr. Urquizo, in your plea agreement how
16 many paragraphs were there?

17 A. 40.

18 Q. And I think earlier Ms. Bhalla asked you a
19 question about how many overt acts there were in
20 your charge. How many overt acts were there?

21 A. There was 40.

22 Q. If she said 39, would there be 39?

23 A. 39, yeah.

24 Q. And in those pages, are those your
25 admissions and pleading guilty?

1 A. Yes, sir.

2 MR. BECK: Your Honor, since Ms.
3 Standridge stepped away, I'm going to show him the
4 first two pages of 742-B, which are identical to
5 what's previously been admitted as Government's
6 Exhibit 742-B.

7 Q. Mr. Urquizo, is this your plea agreement
8 that you just reviewed?

9 A. Yes, sir.

10 Q. And on page 2 of that plea agreement, do
11 you see -- and before you signed and entered this
12 plea agreement, you went over it with your attorney;
13 is that right?

14 A. Yes, sir.

15 Q. Do you see on page 2, paragraph 4, where
16 it says the elements of racketeering conspiracy are?

17 A. Yes, sir.

18 Q. What's the first element under A?

19 A. Enterprise.

20 Q. Is it the existence of an enterprise?

21 A. Yeah, existence of an enterprise.

22 Q. I can't read that either. Let me zoom in
23 on it.

24 A. Yes, existence of an enterprise, yes.

25 Q. What's the second element of a

1 racketeering conspiracy?

2 A. That the enterprise was or would be
3 engaged in or its activities affected or would
4 affect interstate or foreign -- I don't know how to
5 say that word.

6 Q. Is that foreign commerce?

7 A. Yeah, foreign commerce, yes.

8 Q. And what's the third element?

9 A. That each defendant knowingly agreed that
10 a conspirator, which may include the defendant
11 himself, would commit a violation of 18 USC 1962.

12 Q. And you pled guilty to that charge; is
13 that right?

14 A. That's right.

15 Q. Mr. Urquizo, I think when you were being
16 cross-examined by Mr. Villa, he talked to you about
17 the list of crimes that you did for the SNM. Do you
18 remember that?

19 A. Yes, sir.

20 Q. And let's see. I wrote it down. I think
21 he said that if this plea agreement is accepted, you
22 don't do a single day in prison. Do you remember
23 that?

24 A. Yes, sir.

25 Q. For the crimes that you and I went through

1 that you've done for the SNM, have you served or are
2 you actually serving time for those crimes?

3 A. That's what I'm doing time for right now,
4 one of my cases, yes.

5 Q. And the court documents, your J & Cs, or
6 judgment and committals, which Ms. Jacks entered at
7 the end of cross-examination -- do those actually
8 say on there the sentences that you're serving?

9 A. No.

10 Q. What are you currently serving time for in
11 the state?

12 A. First-degree attempted murder on a police
13 officer, and aggravated assault on a police officer,
14 and possession of a deadly weapon by a prisoner.

15 Q. And what is that from?

16 A. That's -- I stabbed a correction officer
17 in the Curry County Detention Center for SNM.

18 Q. Did you and I go over that as one of your
19 SNM activities?

20 A. Yes, sir.

21 MR. BECK: And lastly, I'll ask Ms.
22 Standridge to switch it over to the computer really
23 quickly now that you're back.

24 Q. I think you and I and all the defense
25 attorneys talked about all the benefits you expect

1 to receive for your testimony.

2 If we could go to the next page.

3 And what do you have to do to get that
4 benefit?

5 A. Testify truthfully.

6 Q. And if we file the motion -- zoom in on
7 paragraph 6, please -- what does the last sentence
8 of paragraph 6 mean to you?

9 A. That means that if the United States
10 Attorneys -- they put a motion for the 5K for me to
11 get a lesser sentence, it's still up to the Court to
12 determine what I get.

13 Q. Does that mean that the final word in your
14 sentence or the plea agreement is with the Court?

15 A. Yes, sir.

16 Q. And who is the Court?

17 A. The judge.

18 Q. Which judge?

19 A. This judge.

20 MR. BECK: May I have a moment, Your
21 Honor?

22 THE COURT: You may.

23 MR. BECK: Nothing further, Your Honor,
24 thank you.

25 THE COURT: All right. Thank you, Mr.

1 Beck.

2 Do the defendants need a moment?

3 MR. LOWRY: Yes, Your Honor.

4 THE COURT: Why don't we take our first
5 afternoon break now. All rise.

6 (The jury left the courtroom.)

7 THE COURT: Let me say something about our
8 door. I'm not sure the jury knows what every door
9 is here. We're getting used to being in a
10 courtroom, and I'm not sure that they know what that
11 door is and draw any suspicion from it.

12 I do a program for the Inn of Courts in
13 Albuquerque where I bring young lawyers over and I
14 just set them all in the courtroom and explain to
15 them what each door is. Because many, many young
16 lawyers don't know what all the doors are in the
17 courtroom, and they don't even know, sometimes, the
18 difference between a court reporter and a courtroom
19 deputy. And those are young lawyers.

20 I'm not quite convinced the jury is going
21 to draw much inference from the door over there.
22 But we need to be careful, and we'll continue to try
23 to be careful. But I'm not sure that they're as
24 focused on that door as maybe we will be.

25 All right. We'll be in recess for about

1 15 minutes.

2 (The Court stood in recess.)

3 THE COURT: All right. Let's go on the
4 record. Anything we need to discuss? Do the
5 defendants need to do anything? Want to do
6 anything?

7 MR. VILLA: I think we would like some
8 recross, Your Honor.

9 THE COURT: Okay.

10 (The jury entered the courtroom.)

11 THE COURT: All right. Everyone be
12 seated.

13 All right, Mr. Urquizo. I remind you that
14 you're still under oath.

15 Mr. Villa, did you have recross that you
16 wanted to conduct?

17 MR. VILLA: Yes, Your Honor. Thank you.

18 THE COURT: Mr. Villa.

19 RECROSS-EXAMINATION

20 BY MR. VILLA:

21 Q. May I use the Elmo, please?

22 Mr. Urquizo, I'm going to show you
23 Government's 749, which Mr. Beck showed you a minute
24 ago, and he was talking about your handwriting.
25 This is a letter to your attorney; right?

1 A. Yes, sir.

2 Q. The same attorney you spoke to during the
3 break, the last break --

4 A. Yes, sir.

5 Q. -- after some of your examination, and
6 then you got to testify some more?

7 A. Yes, sir.

8 Q. That's when you talked to her?

9 A. I just talked to her earlier, yeah.

10 Q. Okay. So you're saying the first page
11 handwriting -- that's your handwriting?

12 A. Yes, sir.

13 Q. And on the last page, you're saying that's
14 also your handwriting.

15 A. Yes, sir.

16 Q. Now, let me ask you to clear up a couple
17 of things. You said you met with Mr. Beck, and he
18 was asking you some questions about getting you
19 better prepared for your testimony. When did you
20 meet with Mr. Beck? Last night?

21 A. Yesterday.

22 Q. You met with Mr. Beck yesterday?

23 A. Yes.

24 Q. Before you testified?

25 A. Yes. Briefly, yes.

1 Q. And in response to his questions about
2 whether you were more prepared for your testimony,
3 what you're saying is, after you met with Mr. Beck,
4 you're more prepared to tell the jury what you told
5 them yesterday and today?

6 A. I mean, I was a little refreshed on
7 certain things, yeah.

8 Q. All right. He helped refresh you; is that
9 right?

10 A. Yes.

11 Q. Now, with respect to this letter, do you
12 agree with me that on the first page, you asked --
13 let me go back here to the first page. You're
14 asking your lawyer, "So if you can please call Mark
15 Myers." Do you see that?

16 A. Yes, sir.

17 Q. And you identify Mark as the Deputy
18 Secretary of Corrections?

19 A. Yes.

20 Q. All right. So you wanted -- and by the
21 way, this letter -- we can clear the screen -- is
22 April 2, 2017; right?

23 A. Yes.

24 Q. So it's after the second meeting you had
25 with Mr. Acee; correct?

1 A. Yes, sir.

2 Q. And so at that point you felt like you
3 could tell your lawyer to call the Deputy Secretary
4 of Corrections, Mark Myers; right?

5 A. I didn't feel -- I just --

6 Q. You asked, didn't you?

7 A. Yes, I asked her, yes.

8 Q. And you asked about whether he can get the
9 warden, Franco, to give you back your visits as well
10 as -- can you read your handwriting there? Is this
11 word here "as well as moving, moving me"?

12 A. "Moving me to Las Cruces."

13 Q. So you wanted to get your visits back
14 after you spoke to Mr. Acee on March 6, and you
15 wanted to get moved to Las Cruces.

16 A. Yes, sir.

17 Q. And on the last page of your letter you
18 said -- well, I guess we've got to start here. So
19 right here, "I guess what I'm getting at is, if they
20 don't want to do anything with me, then they can
21 just charge me -- I think, if they just charge me
22 for that hit with Julian Romero, which is
23 aggravated" -- did I read that right?

24 A. Yes, sir.

25 Q. Then I'll switch the page -- "aggravated

1 assault, which doesn't carry that much time, we'll
2 be okay" -- and I'll keep reading and stop using the
3 line -- "that FBI guy said they don't have to charge
4 me with a high crime, as long as it's something to
5 be able to get me on the federal side, be able to
6 help me out a lot more, I know." Did I read that
7 right?

8 A. Yes, sir.

9 Q. Then you say, "I know you don't really
10 trust them, nor do I."

11 A. Yes, sir.

12 Q. "But I already rolled the dice by saying
13 what I did. So I'm just gonna take my chances."

14 Did I read that right?

15 A. Yes.

16 Q. When you're saying, "I don't really trust
17 them," you're talking about them? (Pointing to AUSA
18 table.)

19 A. Yes, at the beginning when I started
20 talking to them, yes.

21 Q. Okay. So you talked to them twice; right?

22 A. Yes.

23 Q. February 24?

24 A. I had talked to the United States
25 Attorneys for the first time in March. But Acee

1 twice.

2 Q. Acee twice, okay. And you didn't trust
3 them.

4 And now I'm just moving down to the last
5 paragraph. You said right here, "Well, I hope you
6 can do something soon, because I feel like nothing
7 is being done. Then I guess I have no choice but to
8 go back up, let them do whatever they want, and I
9 won't testify or anything"?

10 A. Right.

11 Q. Right? So give me what I want, or else I
12 won't testify?

13 A. Pretty much what it sounds like, yes.

14 Q. When you were with the gang, you sort of
15 had the same attitude; right? We're talking about
16 some of the things you did for the SNM and Mr. Beck
17 asked you about that, that you did what you had to
18 do for the gang; right?

19 A. Yes, sir.

20 Q. And in turn, you wanted to get something
21 back.

22 A. Eventually, yes.

23 Q. From the gang.

24 A. Yes.

25 Q. And although, as Mr. Beck asked you,

1 you're doing time for some of the things you did for
2 the gang, you're not doing time for everything you
3 testified about that you did for the gang, are you?

4 A. Everything but the one crime, yes.

5 Q. The one crime. And the plea agreement Mr.
6 Beck asked you about just a minute ago in which you
7 pled guilty to 39 or 40 overt acts -- that's the
8 same plea agreement in which you're hoping for a
9 consecutive (sic) sentence to your state time;
10 right?

11 A. Yes, sir.

12 Q. So that, in reality, if you get that and
13 that sentence is less than what you owe the State,
14 you're not doing any more time for the crimes that
15 you admitted to in that plea agreement.

16 A. No, but I've done 10 years on it already,
17 so --

18 Q. Well, you got to do 10 years, no matter
19 what; right?

20 A. Yes, sir.

21 Q. You're doing a sentence right now -- and I
22 know there's some confusion about how much time you
23 have left -- but if we assume it's ten years, you
24 have to do that no matter what you do; right?

25 A. Right.

1 Q. But when the feds came after you, they
2 wanted to give you more time, didn't they?

3 A. Yes.

4 Q. Maybe life?

5 A. Maybe.

6 Q. Maybe 20 more years?

7 A. Yes.

8 Q. But now with the deal you've got, if it
9 works out, you'll get same amount of time for
10 everything that you pled guilty to in that plea
11 agreement. You don't have to do any more jail time.

12 A. Correct, but I have already done 10 years,
13 though.

14 Q. Okay. But not for what you pled guilty to
15 in the plea agreement for the feds; right?

16 A. Yes.

17 Q. You agree with me on that?

18 A. Yes.

19 MR. VILLA: That's all I have. Pass the
20 witness.

21 THE COURT: Thank you, Mr. Villa.

22 Ms. Jacks, do you have recross of Mr.

23 Urquizo?

24

25

1 we were in our cells kicking it together.

2 Q. I'm just trying to understand. A porter
3 is somebody that helps clean and straighten up the
4 pod?

5 A. Yes, ma'am.

6 Q. And Folse was a porter in one pod?

7 A. Actually, the whole housing unit for 3-B,
8 and I was the porter for housing unit 3-A.

9 Q. Okay. And so 3-A and 3-B are in the same
10 housing unit?

11 A. Two separate units.

12 Q. Were you both porters?

13 A. Yes.

14 Q. And as that job porter, did you both get
15 the opportunity to interact with each other?

16 A. Yes.

17 Q. And I think what you said is you would
18 also kick it with him in your cell?

19 A. Yes.

20 Q. Meaning hang out with him in your cell?

21 A. Yes.

22 Q. Talking and doing whatever?

23 A. Yes.

24 Q. And was that a privilege that -- this was
25 during the time that you were a government witness;

1 right?

2 A. Yes.

3 Q. And Mr. Folse was also a government
4 cooperator, wasn't he?

5 A. From what I hear. Don't know.

6 Q. Well, Mr. Folse and you -- didn't you talk
7 about things that he provided the information he
8 provided to the Government?

9 A. No, he's not an SNM member, so --

10 Q. When you were hanging out in your cell as
11 porters together, you also mentioned Timothy
12 Martinez.

13 A. Yes, ma'am.

14 Q. How did Timothy Martinez fit into that
15 mix?

16 A. He ended up getting moved to T pod
17 briefly. We were in the same pod for, like, maybe
18 three weeks.

19 Q. Was he allowed to hang out in your cell
20 with Mr. Folse, too?

21 A. Yes.

22 Q. So you would kick it with Timothy
23 Martinez?

24 A. Yes.

25 Q. And Timothy Martinez is also a Government

1 witness in this case, isn't he?

2 A. Yes.

3 Q. And Timothy Martinez had a computer tablet
4 given to him after he was arrested as a defendant on
5 the case?

6 A. Yes, but he lost it in Sandoval County.

7 Q. You mean it was taken from him. He didn't
8 actually lose track of it. It got removed from his
9 possession; right?

10 A. Yes.

11 Q. After he reset the tablet and accessed the
12 internet and started surfing Facebook and porn
13 sites?

14 A. I actually don't know exactly, because I
15 wasn't there. But something like that.

16 Q. And Fred Quintana. You mentioned his
17 name?

18 A. Yes, ma'am.

19 Q. Quintana was also a Government cooperator;
20 right?

21 A. Yes.

22 Q. So was he also kicking it back with you in
23 your cell?

24 A. Yes, him and Kevin Folse, the porters in
25 3-B; and I was porter in 3-A, me and Timothy

1 Martinez.

2 Q. So in your spare time, you guys could just
3 hang out, do whatever you wanted?

4 A. Yeah, stay out cleaning, so, yes.

5 Q. Now, is it your -- I mean, is what we're
6 supposed to assume is this Exhibit EO was somehow,
7 like, left in your cell by mistake by Mr. Folse?

8 A. It's not really a mistake. I could
9 explain to you, if you like.

10 Q. Well, Mr. Folse, in this letter, if you
11 read it closely, he's giving instructions about how
12 to smuggle drugs into the facility; right?

13 A. I see that.

14 Q. Right. And was Mr. Folse writing this
15 letter to you and Mr. Martinez and Mr. Quintana to
16 teach you or help you be more effective in smuggling
17 in drugs?

18 A. No.

19 MS. JACKS: Thank you. I have nothing
20 further.

21 THE COURT: Thank you, Ms. Jacks.

22 Mr. Lowry, do you have recross of Mr.

23 Urquizo?

24

25

1 Q. But the reality of this letter is, you
2 know from studying this case as you have that Gerald
3 Archuleta got the three-year deal that you wanted
4 here for the aggravated assault charge?

5 A. I just know the lesser charge.

6 Q. And you know that that charge, because
7 you'd been studying the federal manual of criminal
8 sentencing -- that that particular charge only has a
9 three-year sentence?

10 A. Yes, sir.

11 Q. And that's the charge that Gerald
12 Archuleta pled guilty to.

13 A. From what I understand or heard, I haven't
14 seen it, so I really don't know.

15 Q. But you understand that Gerald Archuleta
16 pled guilty to that three-year sentence, the one
17 that you wanted?

18 A. I think so, yes.

19 Q. That's significantly less than the 20-year
20 sentence that's on the table.

21 A. Yes.

22 Q. And you're saying, "Give me that or I
23 walk"?

24 A. I was trying to get into federal custody
25 instead of state custody. That's why I told him to

1 just go ahead and charge me with that.

2 MR. LOWRY: No further questions, Your
3 Honor.

4 THE COURT: Thank you, Mr. Lowry.
5 Mr. Maynard. Ms. Bhalla, anything
6 further?

7 MS. BHALLA: No, Your Honor. Thank you.

8 THE COURT: Thank you, Ms. Bhalla.

9 All right. Mr. Beck, do you have
10 redirect?

11 MR. BECK: Briefly.

12 REDIRECT EXAMINATION

13 BY MR. BECK:

14 Q. Again, Mr. Urquizo, I think you were cut
15 off. You said that you could explain if you like.
16 I just wanted to give you that opportunity.

17 A. Yes, sir. When I was housed in W pod with
18 Kevin Folse briefly, he had hooked me up with a
19 female to talk to, and I started talking to her.
20 And right away, she started accepting my calls and,
21 you know, writing me a lot of letters, sending me
22 money. So he wasn't really too cool with that. So
23 he started writing to her, and telling her, "Hey,
24 how come you never did that stuff for me?"

25 So I think he had a little grudge on me.

1 And he never really said nothing directly to me, but
2 he did to her. And she told me about it on the
3 phone and stuff like that.

4 So we were porters. He would always look
5 at me funny, or whatever. So he was in my cell.
6 And two days before they shook down my cell, we were
7 in my cell, all four of us, just there. And then,
8 like I said, two days later, even the manager goes
9 and shakes down my house and says that they found a
10 letter in my house. And the STIU went to my house
11 and he asked me, "How did Kevin Folse's letter get
12 in your cell?"

13 And I'm like, "What?"

14 And then they asked me to take a UA
15 because somebody went and said I was getting high.
16 I took a UA and I was clean. I told them I don't
17 get high.

18 Q. What does UA mean?

19 A. A piss test.

20 Q. It's a urinalysis?

21 A. Yes.

22 Q. And if it's clean, what does that mean?

23 A. That means that I wasn't using.

24 Q. And did you use Suboxone?

25 A. No. It has been a few years.

1 Q. Did you write that letter?

2 A. No.

3 Q. I'm showing you what was marked as
4 Government's Exhibit 49.

5 MR. BECK: And Your Honor, I'll move to
6 admit Government's Exhibit 49 into evidence.

7 THE COURT: Any objection?

8 MS. JACKS: May we approach?

9 MR. VILLA: Your Honor, for the record,
10 it's 749.

11 (The following proceedings were held at
12 the bench.)

13 THE COURT: Hurts or helps you?

14 MS. JACKS: Obviously, it's a mixed bag.

15 THE COURT: You can keep it out if you
16 want or keep it in.

17 MS. JACKS: We want to keep it out. We
18 brought the parts in.

19 THE COURT: So it won't be admitted.

20 (The following proceedings were held in
21 open court.)

22 THE COURT: All right, Mr. Beck.

23 MR. BECK: So Your Honor, I'll move to
24 admit Government's Exhibit 749.

25 THE COURT: And I'll keep it out of

1 evidence.

2 BY MR. BECK:

3 Q. I think Mr. Villa was talking to you about
4 this, that you wanted Mr. Myers to give you personal
5 visits. Is that what you were asking your attorney
6 for?

7 A. Yes, contact visits.

8 Q. Did Mr. Myers give you those contact
9 visits?

10 A. No. I was not moved to Las Cruces either.

11 Q. Did you ask Mr. Myers to move you to Las
12 Cruces?

13 A. Yes, and he said no.

14 Q. And then I think on the bottom you said
15 you wanted a charge that had a three-year maximum
16 sentence. Were you charged with that crime?

17 A. Yes.

18 Q. Were you charged with the crime that had a
19 three-year maximum sentence?

20 A. Oh, no. No.

21 Q. And on that last paper when you said, "I
22 already rolled the dice by saying what I did so,"
23 what did you already say that you rolled the dice
24 with?

25 A. That would be -- I told them what happened

1 with the Javier Molina murder and the Julian Romero.

2 So I told them everything, what happened.

3 MR. BECK: Pass the witness.

4 THE COURT: All right. Mr. Urquizo, you
5 may step down.

6 Is there any reason Mr. Urquizo cannot be
7 excused from the proceedings, Mr. Beck?

8 MR. BECK: No, Your Honor.

9 THE COURT: How about from any of the
10 defendants?

11 MR. LOWRY: He can be excused, Your Honor.

12 MS. JACKS: No, let's keep him. We'd like
13 him available for re-call, if necessary, Your Honor.

14 THE COURT: All right. You'll remain
15 subject to re-call, but at the present time you can
16 leave, and you'll need to stay outside of the
17 courtroom. All right. Thank you for your
18 testimony.

19 All right. Does the Government have its
20 next witness or evidence, Mr. Beck?

21 MR. BECK: Your Honor, the United States
22 calls STIU Coordinator Daniel Blanco.

23 THE COURT: Mr. Blanco, if you'll come up
24 and stand next to the witness box on my right, your
25 left. Before you're seated, my courtroom deputy,

1 Ms. Standridge, will swear you in.

2 DANIEL BLANCO,

3 after having been first duly sworn under oath,

4 was questioned, and testified as follows:

5 THE CLERK: Please be seated. State and
6 spell your name for the record.

7 THE WITNESS: Daniel Blanco. B-L-A-N-C-O.

8 THE COURT: Mr. Blanco.

9 Mr. Beck?

10 DIRECT EXAMINATION

11 BY MR. BECK:

12 Q. Coordinator Blanco, how are you employed?

13 A. I'm employed with the Department of
14 Corrections.

15 Q. And what's your position there?

16 A. I am the Security Threat Intelligence Unit
17 Coordinator.

18 Q. What's the Security Threat Intelligence
19 Unit?

20 A. STIU. It's -- we deal with, of course,
21 gangs within the prison system.

22 Q. What are your duties as Coordinator of the
23 STIU?

24 A. There's a vast number of duties, but
25 mainly is gathering intelligence. It's --

1 everything and anything having to do with gang
2 activity within, of course, the prison walls.

3 Q. Why do you gather intelligence?

4 A. Well, to maintain the safety and security
5 of the institution. To basically have a little bit
6 of knowledge of what gangs are doing within our
7 prison system, so that we can combat, you know,
8 whatever is going on, whether it's illegal, legal,
9 or whatever the case may be.

10 Q. And how long have you been the STIU
11 Coordinator?

12 A. I'm currently going on about six years.

13 Q. Your six years as STIU Coordinator, has
14 that been at multiple prisons or just at one
15 facility?

16 A. It's been at multiple prisons. I actually
17 also manage other prisons.

18 Q. What prisons?

19 A. That's Roswell Correctional Center, Hobbs,
20 Lea County, and Otero County.

21 Q. Are you also the STIU Coordinator at
22 Southern New Mexico Correctional Facility here in
23 Las Cruces?

24 A. Yes.

25 Q. You talked about prison gangs. What are

1 the prison gangs inside of New Mexico Corrections
2 for STIU?

3 A. Well, the Security Threat Groups that we
4 have currently in the New Mexico prison system is
5 Los Carnales, Sindicato de Nuevo Mexico, and the
6 California Surenos.

7 Q. What's an STG?

8 A. It's an Security Threat Group.

9 Q. Is there another level of prison gangs in
10 the New Mexico Corrections Department?

11 A. Another level that we have are
12 non-validated group, which is the regular street
13 gangs. But other than our STGs, what we refer to is
14 just those three.

15 Q. The Sindicato de Nuevo Mexico, is that
16 also known as the SNM?

17 A. Yes.

18 Q. What did you do before you were the STIU
19 Coordinator?

20 A. I was the STIU Captain or Investigator.
21 Captain, which works under the STIU Coordinator.

22 Q. And before that?

23 A. Before that I was the Emergency
24 Preparedness Coordinator and Facility Coordinator or
25 Training Coordinator.

1 Q. How long have you worked at the New Mexico
2 Corrections Department?

3 A. I'm coming up on 25 years in March.

4 Q. I'd like to talk to you about an incident
5 on December 28, 2009, involving the defendant, Mr.
6 Anthony Baca. On December 28, 2009, did you go and
7 visit Mr. Baca in his cell at Southern New Mexico?

8 A. Yes.

9 Q. And why did you do that?

10 A. There was an incident involving Mr. Baca
11 and one of my employees, at which time I was working
12 the line.

13 Q. And Coordinator Blanco, I can hear you all
14 right, but maybe some people in the back can't. So
15 just try to speak into the microphone just a little
16 bit more.

17 A. Okay, sorry.

18 Q. So I ask, why did you go to Mr. Baca's
19 cell in 2009?

20 A. That particular day there was an incident
21 involving one of my sergeants when I was on the
22 line, working on the line at that particular time.

23 Q. What does "on the line" mean?

24 A. Working -- while working in the back,
25 working as a supervisor in the institution.

1 Q. And what happened when you went to go
2 visit Mr. Baca's cell?

3 A. Well, it was particularly -- that day I
4 guess we locked him up due to having some
5 contraband, and an incident occurred where the
6 officers might have been in danger at that point in
7 time -- or threatened.

8 Q. You said a couple of things there. What
9 contraband did Mr. Baca have in his cell?

10 A. It was heroin.

11 Q. And you said that there was a situation
12 where officers were in danger. What happened?

13 A. Well, the sergeant was making a round
14 through the back of the units. He looked into Mr.
15 Baca's cell. He saw him putting some kind of
16 substance into a type of cellophane plastic. He
17 radioed to the sergeant, which was there --

18 MR. LOWRY: Your Honor, I'm going to
19 object to the hearsay.

20 THE COURT: Why don't you walk him through
21 this, unless you're trying to elicit these
22 out-of-court statements.

23 MR. BECK: I'm not trying to --

24 THE COURT: Just lead him through, then.

25 MR. BECK: Okay.

1 BY MR. BECK:

2 Q. So a corrections officer viewed Mr. Baca
3 putting something in cellophane?

4 A. Correct.

5 Q. And then at what point were you called out
6 to the -- to Mr. Baca's cell --

7 A. Well, I was --

8 Q. -- without telling me who called you or
9 what was said, at what point were you called out?

10 A. It was shortly after; it was just through
11 radio communications.

12 Q. And when you entered the pod, what did you
13 observe?

14 A. I observed two of my officers inside the
15 cell and two other inmates in Mr. Baca's cell.

16 Q. Did the two inmates include Mr. Baca, or
17 Mr. Baca and two other inmates?

18 A. Mr. Baca and two other inmates.

19 Q. Okay. And what were the two other inmates
20 and the corrections officers doing to one another?

21 A. It seemed like they were arguing.

22 Q. Okay. And then what happened?

23 A. Well, the rest of the inmates were locked
24 down -- were placed back in their cells so we could,
25 of course, settle that situation down.

1 Q. Why did you think the inmates were in
2 danger?

3 A. I don't believe --

4 Q. Well -- sorry -- sorry, not the inmates.
5 Why did you think the corrections officers were in
6 danger?

7 A. Well, simply because of the circumstances,
8 them finding contraband in the cell, and because,
9 you know, there were some words being exchanged
10 between the officers and, of course, the inmates.
11 The officers were telling the inmates to back off.

12 Q. Hold on one second. I don't want you to
13 tell me what they were talking -- did -- did an
14 altercation break out between the corrections
15 officers and the inmates?

16 A. No, there was no altercation.

17 Q. Why not?

18 A. Because at that point in time, the inmates
19 actually backed off.

20 Q. And why did -- and -- and it -- did they
21 back off because of something that was said?

22 A. Yes.

23 Q. Okay. And who said that?

24 A. Baca.

25 Q. And now, what did Mr. Baca say that made

1 those two inmates back down?

2 A. Mr. Baca told them to back down because
3 they were making the situation worse.

4 Q. And did those inmates listen to Mr. Baca?

5 A. Yes, they did.

6 Q. And at the end of that situation, what was
7 found in Mr. Baca's cell?

8 A. The substance was tested. It was sent
9 back to the lab and it was known to be heroin.

10 Q. After 2009 -- in 2011, what happened when
11 Gregg Marcantel was appointed Secretary of
12 Corrections? What happened with the SNM?

13 A. Well, there was some kind of movement by
14 the Corrections Department to try and incorporate --
15 or try and bring the SNM back into general
16 population.

17 Q. And it was Mr. Marcantel's idea?

18 A. At the time, yes, we believe -- well, it
19 was coming from the Secretary of Corrections, so we
20 figured, yes, that was his idea.

21 Q. And at this time, were you an STIU
22 Investigator when this was happening?

23 A. Yes.

24 Q. Were you working with the STGs, including
25 SNM?

1 A. Yes.

2 Q. And what did you think about Corrections'
3 decision to try to get SNM out of lockdown and back
4 to population?

5 A. I thought it was a bad decision.

6 Q. Why?

7 A. Because -- knowing the history of the SNM.

8 Q. I want to talk to you about March 7 of
9 2014. What was your position on that day?

10 A. I was the STIU Coordinator.

11 Q. And what happened on March 7, 2014?

12 A. I was called to respond to the facility
13 for possible assault.

14 Q. And what did you learn upon arriving at
15 the facility?

16 A. I had learned that Javier Molina had been
17 stabbed numerous times.

18 Q. What did you do when you arrived at the
19 facility?

20 A. My job at that point in time was to gather
21 my staff and prepare to investigate -- or begin
22 assisting State Police in investigations.

23 Q. Why was the STIU investigating Javier
24 Molina's stabbing?

25 A. Because that's part of one of our duties

1 is to investigate and gain intelligence as to why
2 the situation happened.

3 Q. Was Javier Molina a validated SNM member?

4 A. Yes.

5 Q. Was he living in an SNM pod?

6 A. Yes.

7 Q. Is that also why it was STIU's job to
8 investigate?

9 A. Yes.

10 Q. So after you gathered your men, what did
11 you do?

12 A. We coordinated with State Police in
13 escorting and getting involved into some of the
14 investigations during that -- the whole process.

15 Q. Did you assign STIU investigators to go to
16 the hospital with Mr. Molina?

17 A. Yes, I did.

18 Q. Did you assist with the interviews?

19 A. I assisted a few days after.

20 Q. On that night, did you pull videos from
21 the video camera?

22 A. On that night, there were some videos
23 that -- that yes, were downloaded.

24 Q. Did STIU pull the videos from the video
25 camera that night?

1 A. Yes.

2 Q. Why were those videos pulled?

3 A. Because we wanted to see if there was
4 any -- anything that we could -- we could see as to
5 what actually transpired with that -- with those
6 instances -- or that instance.

7 Q. And as the STIU Coordinator, what did you
8 know about the operation of the video camera system
9 at Southern New Mexico Correctional Facility at that
10 time?

11 A. Well, I mean, that's what we utilized, you
12 know, for every instance or situation. What I know
13 about it is, it was a Pelco system, which was
14 actually -- the whole system was in the location of
15 the master control. So there was very little access
16 to individuals -- to -- I mean, as far as accessing
17 it, it was only supervisors that could actually
18 access the video camera or system.

19 Q. Were all the cameras at Southern New
20 Mexico working?

21 A. No.

22 Q. When STIU pulled the videos that night,
23 were videos from all of the cameras in 1-A, B pod
24 pulled?

25 A. No. There was only two cameras that were

1 actually working. One was down.

2 Q. Is that the reason that there was not a
3 video pulled from that camera, because it wasn't
4 functioning?

5 A. Correct.

6 Q. Do you know that the videos -- the videos
7 are stored on a Corrections mainframe after
8 they're -- after they're recorded?

9 A. Yes.

10 Q. Do you know if those videos are there for
11 a week after they're recorded?

12 A. There was always the impression -- I mean,
13 I don't know because I wasn't an expert, and I'm
14 not, you know -- I don't work on the videos other
15 than retrieving information from them. But we were
16 told there were 30 days.

17 Q. After STIU pulled the videos from 1-A, B
18 pod where the Molina -- is that where the Molina
19 stabbing occurred, 1-A, B pod?

20 A. Yes.

21 Q. After you pulled those videos, what did
22 you do with them?

23 A. We viewed them. And I sat and pretty much
24 identified people that were on the video and what
25 they were doing at that point in time of the

1 incident.

2 Q. Okay. At some point did you then send
3 those videos to the New Mexico State Police?

4 A. Yes. They were given to New Mexico State
5 Police for evidence.

6 Q. Okay. And did you and I review those
7 videos a couple of weeks ago?

8 A. Yes.

9 Q. And were they in the same or substantially
10 the same condition as when you -- when you saw them
11 the day -- the night or the day after the Molina
12 stabbing?

13 A. Yes.

14 Q. Were you the STIU Coordinator when Julian
15 Romero was assaulted at Southern New Mexico
16 Correctional Facility?

17 A. Yes.

18 Q. And what happened -- where were you when
19 that happened?

20 A. I was in the office.

21 Q. At Southern New Mexico Correctional
22 Facility?

23 A. Yes.

24 Q. And how did you -- without telling me what
25 anyone said, how did you find out about the Julian

1 Romero assault?

2 A. Through the radio. Through our guard --

3 Q. And what did you do after you found out
4 about the Julian Romero assault?

5 A. I gathered one -- or two of my officers
6 and I went to the hospital where he was taken to,
7 Memorial Medical Center.

8 Q. All right. And right before the Julian
9 Romero assault, was anything happening with the SNM
10 pod from Corrections' standpoint?

11 A. From the Corrections' standpoint, they
12 were still on lockdown due to the assault on Molina.

13 Q. And how soon after they were put on
14 lockdown -- after they were released from
15 lockdown -- how soon after they were released from
16 lockdown did the Julian Romero assault happen?

17 A. It must have been possibly minutes --
18 minutes after.

19 Q. And did you -- did Corrections then
20 immediately lock down the SNM after the assault
21 again?

22 A. Yes.

23 Q. Were you part of that decision?

24 A. No, I wasn't part of that decision.

25 Q. Did you go to the hospital with Julian

1 Romero?

2 A. I met Julian Romero there. They took him,
3 but I didn't transport -- or wasn't in the ambulance
4 with Romero.

5 Q. So did you see Julian Romero at the
6 hospital right after the Julian Romero assault?

7 A. Yes.

8 Q. And did you observe his wounds?

9 A. Yes.

10 Q. And how would you -- were they serious,
11 were they minor?

12 A. They were fairly serious.

13 Q. Okay. Did you try to interview Mr.
14 Romero?

15 A. Yes, I did.

16 Q. And did Mr. Romero tell you all about what
17 happened?

18 A. Mr. Romero just stayed quiet. He -- all
19 he told me was that --

20 Q. I'm not trying -- why did he -- in your
21 opinion, why did he stay quiet?

22 A. Because that was just -- knowing Julian
23 Romero, that's basically his code. He will not tell
24 you anything or talk to you or anything.

25 Q. Was Julian Romero a validated SNM member?

1 A. Yes, he was.

2 Q. Did STIU pull the video after the assault
3 for the Julian Romero assault?

4 A. Yes.

5 Q. How long afterwards?

6 A. I believe it was possibly the next day.

7 Q. And did you watch it when it was pulled?

8 A. Yes.

9 Q. Did you and I review that video a few days
10 ago?

11 A. Yes.

12 Q. And was that video, when you and I
13 reviewed it a few days ago, in the same or
14 substantially the same condition as it was when you
15 viewed it when it was pulled from the SNMCF?

16 A. Yes.

17 MR. BECK: Your Honor, at this time the
18 United States -- and I might be -- thank you.

19 At this time the United States moves to
20 admit Government's Exhibit 269.

21 THE COURT: Any objection from the
22 defendants?

23 MR. LOWRY: No objection.

24 MS. FOX-YOUNG: No objection.

25 THE COURT: All right. Government's

1 Exhibit 2 -- not hearing any objection, Government's
2 Exhibit 269 will be admitted into evidence.

3 (Government's Exhibit 269 admitted.)

4 BY MR. BECK:

5 Q. Where is this, Coordinator Blanco?

6 A. This is Housing Unit 1-A, C pod.

7 Q. And we've heard reference to -- is this
8 the same pod where the Molina murder occurred?

9 A. No.

10 Q. Was that in 1-A, B pod?

11 A. Yes.

12 Q. Is this pod -- during the time of this
13 video -- during the time of the Julian Romero video,
14 is this an SNM pod?

15 A. Yes.

16 Q. What does that mean?

17 A. That is basically where we housed all the
18 SNM validated members.

19 Q. Okay. And Government's Exhibit 269 --
20 Government's Exhibit 269, on the top left-hand
21 corner, does it say, "Channel 7, 07/13/2015,
22 14:36:29:921." Is that what it says in the top
23 left-hand corner, Mr. Blanco?

24 A. Yes.

25 Q. And did the Julian Romero assault occur on

1 July 13, 2015?

2 A. Yes.

3 MR. BECK: And if you'll press play,
4 please, thank you.

5 (Tape played.)

6 BY MR. BECK:

7 Q. Coordinator Blanco, the time stamp now
8 says 14:36:59:890. And how many inmates have we
9 observed since -- how many inmates have you observed
10 since you started watching the video?

11 A. One.

12 Q. Okay. Is that the gentleman in the front
13 left-hand corner of this frame?

14 A. Yes, underneath the TV screen.

15 Q. Okay. What about in the back of this at
16 the middle -- I'm going to mark here -- is there
17 another individual?

18 A. Yes.

19 Q. All right. And I think -- did you observe
20 earlier in this screen -- maybe not on this frame,
21 but did you observe one other individual in this --
22 in this video?

23 A. Yes.

24 Q. And how many inmates -- is this depicting
25 what we've heard referred to as tier time?

1 A. Yes.

2 Q. How many inmates were allowed on tier time
3 at this time?

4 A. There is eight usually allowed tier time
5 at a time.

6 Q. Okay. But how about on July 13 of 2015,
7 at approximately 2:35 in the afternoon?

8 A. I believe at that time they went down to
9 just four because of the incidents prior.

10 MR. BECK: Please press play.

11 (Tape played.)

12 MR. BECK: Please press pause. Thank you.

13 BY MR. BECK:

14 Q. I paused the video at 14:37:27:906; is
15 that right?

16 A. Yes.

17 Q. And how many individuals do we now see in
18 the frame?

19 A. I see four.

20 MR. BECK: Please -- please press play.

21 (Tape played.)

22 MR. BECK: Please press pause.

23 BY MR. BECK:

24 Q. I paused it at 14:37:59:906. What are the
25 gentlemen in front doing? In the front left corner

1 of that screen?

2 A. I believe they're just taking their
3 laundry.

4 Q. Does that include towels?

5 A. Yes.

6 Q. Are those towels used for showering?

7 A. Yes.

8 MR. BECK: Please press play.

9 (Tape played.)

10 MR. BECK: Please press pause.

11 BY MR. BECK:

12 Q. So I paused the video at 14:38:21:921.

13 And if we look in the back left center of that
14 screen, what did we just see in the last few
15 seconds?

16 A. An inmate come up and hit another inmate.

17 Q. And say that one more time into the
18 microphone just so everyone can hear you.

19 A. Inmate just walked up and hit another
20 inmate.

21 MR. BECK: And can you go back just a
22 couple of frames?

23 (Tape played.)

24 MR. BECK: All right.

25

1 BY MR. BECK:

2 Q. I paused it now at 14:38:16:921. Who is
3 the inmate in the middle of that -- in the middle of
4 the screen that I just circled in his -- what I will
5 call his greens. Who is that inmate?

6 A. That would be Julian Romero.

7 Q. And do you know who the inmate right next
8 to him in white -- just to his right, is?

9 A. No.

10 MR. BECK: Please press play.

11 (Tape played.)

12 MR. BECK: Please press pause.

13 BY MR. BECK:

14 Q. I paused it at 14:38:46:890. What have we
15 seen between those two inmates in the back on the
16 lower tier?

17 A. They're engaging in a physical
18 altercation.

19 MR. BECK: Please press play.

20 (Tape played.)

21 MR. BECK: Please press pause.

22 BY MR. BECK:

23 Q. I stopped it at 14:40:09:921. What does
24 the inmate in white appear to be doing?

25 A. He's walking away.

1 Q. And did you observe Mr. Romero attempt to
2 get up approximately three times during those couple
3 of minutes?

4 A. Yes.

5 Q. And what happened when he tried to get up?

6 A. He was again continued assault -- being
7 assaulted by the inmate.

8 MR. BECK: Please press play.

9 (Tape played.)

10 MR. BECK: Please press pause.

11 BY MR. BECK:

12 Q. In the back -- I paused the video at
13 14:40:31:921. The gentleman who was assaulting Mr.
14 Romero went to the back middle of the lower tier.
15 What is in that compartment that he went to in
16 there?

17 A. That's the inmate shower, the bottom tier
18 shower.

19 MR. BECK: Please press play.

20 (Tape played.)

21 MR. BECK: Please press pause.

22 BY MR. BECK:

23 Q. I paused the video at 14:40:49:890, and
24 I'm circling a spot on the lower tier, right in
25 between the two cell doors. Do you know which cell

1 is the last on the bottom left?

2 A. Yes.

3 Q. What cell is that?

4 A. 108 -- 1108.

5 Q. And just to the right of that, which cell
6 is that, the second from the right?

7 A. 109.

8 Q. And in between cells 108 and 109, do you
9 see anything on the wall on the floor there?

10 A. Yeah, it appears to be towels.

11 Q. Do you see a dark spot in between those
12 doors? And if you don't, that's fine.

13 A. Yes.

14 Q. What is that dark spot?

15 A. Possibly blood.

16 MR. BECK: Please press play.

17 (Tape played.)

18 MR. BECK: All right. Please press pause.

19 BY MR. BECK:

20 Q. And where did Mr. Romero go? We paused
21 the video at 14:40:57:890. Where does it appear
22 that Mr. Romero went?

23 A. Towards the shower.

24 MR. BECK: Please press play.

25 (Tape played.)

1 MR. BECK: Please press pause. Will you
2 rewind it just a couple seconds? More, more, more.
3 I'll tell you when to stop.

4 All right. Press play. I am pressing
5 play at 14:40:41:921.

6 (Tape played.)

7 MR. BECK: Please press pause.

8 BY MR. BECK:

9 Q. I paused the video at 14:42:18:906. Did
10 you see Mr. Romero go out of sight to the right of
11 this video?

12 A. Yes.

13 Q. And where is the pod door on this pod?

14 A. It's off to the right side.

15 Q. Can you see -- can you see where the pod
16 door exiting this pod would be?

17 A. No. You wouldn't be able to see it from
18 this angle.

19 Q. Is that to the right, where Mr. Romero
20 just went?

21 A. Yes.

22 Q. Which hospital did you visit to see Mr.
23 Romero?

24 A. At Memorial Medical Center.

25 Q. Is that here in Las Cruces?

1 A. Yes.

2 Q. Did Mr. Romero go to another hospital, if
3 you know?

4 A. Yes, he did.

5 Q. What hospital?

6 A. He went to the Trauma Center in El Paso.

7 MR. BECK: May I have a moment, Your
8 Honor?

9 THE COURT: You may.

10 BY MR. BECK:

11 Q. After the Molina murder, did you see Mr.
12 Perez' walker?

13 A. Yes.

14 Q. And just so we're clear, that's Mr. Rudy
15 Perez. Is he seated here in this courtroom?

16 A. Yes.

17 MS. FOX-YOUNG: Your Honor, we'll
18 stipulate.

19 THE COURT: Good enough. Mr. Beck?

20 MR. BECK: That's fine, Your Honor.

21 BY MR. BECK:

22 Q. Where did you see Mr. Perez' walker after
23 the Javier Molina murder?

24 A. At the time it was in Deputy Warden James
25 Mulheron's office.

1 MR. BECK: Your Honor, I'm going to
2 approach the witness and show him what's been
3 previously identified as Government's Exhibits 89
4 and 90.

5 May I approach, Your Honor?

6 THE COURT: You may.

7 BY MR. BECK:

8 Q. Coordinator -- Coordinator Blanco, do you
9 recognize what's in Government's Exhibits 89 and 90?

10 A. Yes.

11 Q. What is that?

12 A. That is the walker belonging to inmate
13 Perez.

14 Q. Where is that -- where are these photos
15 taken?

16 A. Those are taken in the office, Mr.
17 Mulheron's office.

18 Q. Is that where you observed Mr. Perez'
19 walker?

20 A. Yes.

21 MR. BECK: Your Honor, the United States
22 moves to admit Government's Exhibits 89 and 90.

23 THE COURT: Any objection from the
24 defendants?

25 MS. FOX-YOUNG: Your Honor, may we

1 approach?

2 THE COURT: You may.

3 (The following proceedings were held at
4 the bench.)

5 MS. FOX-YOUNG: I don't want to tell Mr.
6 Beck how to do his direct, but I don't think there
7 is a foundation as to how and if he knows that it is
8 Mr. Perez' walker. Could I just do a brief voir
9 dire?

10 THE COURT: Okay.

11 MR. BECK: Okay.

12 (The following proceedings were held in
13 open court.)

14 MR. BECK: Should we do that outside the
15 presence --

16 THE COURT: Well, it's laying a
17 foundation.

18 MR. BECK: I think it's fine.

19 THE COURT: All right.

20 Ms. Fox-Young, do you want to voir dire
21 the witness?

22 MS. FOX-YOUNG: Thank you, Your Honor.

23 THE COURT: Ms. Fox-Young?
24
25

1 VOIR DIRE EXAMINATION

2 BY MS. FOX-YOUNG:

3 Q. Good afternoon, Coordinator Blanco.

4 A. Good afternoon.

5 Q. Stop me if I'm mischaracterizing your
6 testimony, but I think that you just said that you
7 know that the walker that you saw in Mr. Mulheron's
8 office belonged to Mr. Perez?

9 A. Yes.

10 Q. Please tell me how you know that.

11 A. He's been having that walker -- he used it
12 for plenty of times -- when we do rounds, we notice
13 what the inmates have, and that was assigned to Mr.
14 Perez.

15 Q. And so can you tell me when you saw it in
16 Officer Mulheron's office?

17 A. That was after -- possibly a week after
18 the Molina murder.

19 Q. Okay. And are you aware that there are --
20 or there were in 2014 contained within the
21 wheelchair program, numerous walkers like that?

22 A. Maybe like that, but not that weren't
23 nowhere he could get ahold of those. The inmates
24 didn't possess any walkers from that program.

25 Q. Okay. Can you just tell me there is

1 something identifying about this walker in
2 particular that lets you know that it was Mr.
3 Perez'?

4 A. It's purple in color. And he's had that
5 walker for a while.

6 Q. Okay. And you had seen it in Mr. Perez'
7 cell?

8 A. Yes.

9 Q. Okay. And you knew that he used a walker
10 for a long period of time?

11 A. Yes.

12 MS. FOX-YOUNG: Okay. Thank you, Your
13 Honor.

14 THE COURT: Thank you, Ms. Fox-Young.

15 All right. Any objection then to the
16 admission of 89 and 90, Ms. Fox-Young?

17 MS. FOX-YOUNG: No objection.

18 THE COURT: Anybody else? No objection?
19 Not hearing any objection, Government's Exhibits 89
20 and 90 will be admitted into evidence.

21 (Government's Exhibits 89 and 90
22 admitted.)

23 THE COURT: Mr. Beck?

24 MR. BECK: I'm not going to -- will you
25 bring up Exhibit 89, please.

1 CONTINUED DIRECT EXAMINATION

2 BY MR. BECK:

3 Q. We already know how you know this is in
4 Perez's walker, so I'm not going to ask you that.
5 What do you observe down there in the bottom left
6 corner of this picture -- on the bottom of Mr.
7 Perez' walker next to the wheel?

8 A. It's a piece of a sheet -- institutional
9 sheets that we give the inmates.

10 Q. Why is that there?

11 A. To hold the walker together.

12 MR. BECK: Will you bring up Government's
13 Exhibit 90.

14 BY MR. BECK:

15 Q. And the same question about Government's
16 Exhibit 90. What do you observe in the bottom -- in
17 the middle of this screen next to the wheel. Is
18 that the same?

19 A. It's the same cloth material from the
20 sheets.

21 Q. And again, this is how you observed the
22 walker after the Molina homicide; is that correct?

23 A. Correct.

24 Q. Was that significant to you that it was
25 tied together with sheets?

1 A. Yes.

2 Q. Why?

3 A. Because there was -- held together by
4 that -- I mean, there is a piece missing from that
5 walker.

6 MR. BECK: May I have a moment, Your
7 Honor?

8 THE COURT: You may.

9 BY MR. BECK:

10 Q. And Coordinator Blanco, I think you and I
11 talked about this, but just so we're clear, the pod
12 where the Julian Romero -- that's Count 3 in this
13 case -- where the Julian Romero assault happened,
14 was that an SNM pod?

15 A. Yes.

16 Q. And what does that mean?

17 A. That's an SNM pod because that's --
18 inmates that are housed in that -- in that
19 particular pod are validated SNM members.

20 MR. BECK: Pass the witness, Your Honor.

21 THE COURT: Thank you, Mr. Beck.

22 Ms. Fox-Young, do you want to --

23 MS. FOX-YOUNG: I think Mr. Lowry is going
24 to.

25 THE COURT: All right. Mr. Lowry, if you

1 wish to cross-examine Mr. Blanco.

2 CROSS-EXAMINATION

3 BY MR. LOWRY:

4 Q. Good afternoon, Mr. Blanco.

5 A. Good afternoon.

6 Q. So I take it in your career as a STIU
7 Officer, you're familiar with historical records in
8 the STIU files?

9 A. Yes.

10 Q. And you had begun your testimony on direct
11 examination about a discussion of a 2009 incident
12 involving my client, Anthony Ray Baca; is that
13 right?

14 A. Yes.

15 Q. And that was an incident where Mr. Baca
16 was using heroin in his cell?

17 A. Correct.

18 Q. And, in fact, when he was caught by a
19 correctional officer using heroin in his cell, other
20 folks in the pod rushed to try to separate -- keep
21 the guard from obtaining his paraphernalia, if you
22 will?

23 A. Correct.

24 Q. And in fairness, Mr. Baca told everybody
25 in the pod to stand down, the officer was just doing

1 his job?

2 A. Yes.

3 Q. And that created tension between Mr. Baca
4 and the other individuals in the pod, and that's
5 what you were talking about when the inmates were
6 exchanging words that created some concern on the
7 part of correctional officers?

8 MR. BECK: Objection, compound, Your
9 Honor.

10 THE COURT: Overruled.

11 A. Can you repeat that question?

12 BY MR. LOWRY:

13 Q. Sure. You testified about words being
14 exchanged between the inmates on the pod.

15 A. Correct.

16 Q. And that is typical for correctional
17 officers -- gave everybody -- you know, gave them a
18 bit of concern, that the tension was rising on the
19 pod?

20 A. Yes.

21 Q. So they put everybody in their cell just
22 to get control over the situation?

23 A. Yes.

24 Q. But the reason they needed to do that is
25 because Mr. Baca said, "Look, this guy is doing his

1 job, let him do his job"?

2 A. No.

3 Q. You don't think -- you said that he told
4 them to stand down and not interfere with the
5 officer.

6 A. Yes, I did. But I believe there is a
7 little bit more to that than just him telling them.

8 Q. But in fairness, other folks wanted to
9 intervene on his behalf?

10 A. Other SNM members, yes.

11 Q. Correct. Now, you're aware at that time
12 with the SNM, given your historical knowledge, it
13 was pretty divided, if you will, politically?

14 A. Yes, somewhat.

15 Q. I mean, there was no cohesive
16 organization?

17 A. There has always been an organization.

18 Q. Right. But there was no clear leader or
19 structure?

20 A. No, Mr. Baca is the known leader.

21 Q. Well, he had been out of state for almost
22 a decade; correct?

23 A. And even then he was still the leader.

24 Q. Okay. Well, Gerald Archuleta was the
25 leader for many years; correct?

1 A. Under Mr. Baca.

2 Q. And that's according to your records?

3 A. That's according to our intelligence, yes.

4 Q. But you're aware that in 2011, Mr. Baca
5 was removed from the Southern facility because the
6 people there didn't like him, they wanted him out of
7 there?

8 A. Yes.

9 Q. Okay. And, in fact, the basis for the
10 removal was that Mr. Baca no longer had control over
11 the SNM?

12 A. They wanted him out of the leadership
13 position.

14 Q. Correct. And he no longer had control
15 over the SNM?

16 A. Yes.

17 Q. And the other influential members of the
18 SNM wanted to step up in the leadership roles, so
19 they had planned to kill him?

20 A. Yes.

21 Q. And one of the reasons he was sent out is
22 because he didn't enforce the rules in a more
23 violent manner?

24 MR. BECK: Objection, Your Honor. I think
25 we're getting into hearsay.

1 A. No.

2 MR. LOWRY: May I approach, Your Honor?

3 THE COURT: Well, why don't you lay a
4 foundation as to where he's getting this
5 information?

6 MR. LOWRY: Sure.

7 BY MR. LOWRY:

8 Q. Are you aware of the classification
9 reports that were drafted by the Department of
10 Corrections to send Mr. Baca to Level 6 at Santa Fe?

11 A. Not the classification reports. I just
12 know that that's what -- the reason why he was sent
13 up to Santa Fe.

14 Q. And those reports were actually instigated
15 by the STIU?

16 A. No. Instigated as far as what?

17 Q. Well, that original information that
18 founded his removal from Southern to Level 6 came
19 from the STIU?

20 A. Yes. We gathered information or
21 intelligence regarding that situation. And it was,
22 best to my knowledge, that he be sent back up to the
23 North.

24 MR. BECK: Objection, Your Honor.

25 THE COURT: I think we're just eliciting

1 what he read. So sustained.

2 BY MR. LOWRY:

3 Q. You were aware of reports by the FBI
4 concerning Mr. Baca's safety at that time?

5 A. No.

6 Q. You weren't?

7 A. No.

8 MR. LOWRY: Your Honor, can we approach
9 real quickly?

10 THE COURT: You may.

11 (The following proceedings were held at
12 the bench.)

13 MR. LOWRY: Your Honor, this is a
14 classification report that the witness just stated
15 is based on STIU information. And frankly, it's an
16 adopted admission by a party opponent, and the Court
17 has ruled throughout this case that the Department
18 of Corrections and the prosecution in this case are
19 one and the same.

20 And this report has been adopted by the
21 department for its truth of why Mr. Baca was sent to
22 Level 6. And it's based on information that was
23 gathered in part by the Federal Bureau of
24 Investigations. So I don't think it's hearsay. I
25 think --

1 THE COURT: Well, I certainly made the
2 ruling for the purpose of discovery, but I don't
3 think I've made it for all purposes here. I think
4 for me to equate the Department of Corrections with
5 the U.S. Attorney, I don't think that would be
6 correct, particularly with the documents from 2011.

7 So I'm not sure that that argument is
8 going to allow you to just have him indicate what
9 was said in the document back then.

10 MR. LOWRY: But he has admitted to having
11 the basis for some of this knowledge, given his
12 historical role with the facility.

13 THE COURT: If you can lay an independent
14 basis for it, then I'll let you do it. But if he's
15 just going to sit there and say, "I read it in a
16 document," I don't think that's going to get it
17 done.

18 MR. BECK: I also think that -- I mean, to
19 the extent that he would have knowledge, it's based
20 on -- it's based solely on hearsay and what he's
21 hearing from other inmates. So in that case, I
22 think this Court has made that clear that we're not
23 going to have corrections officers just be conduits
24 for specific testimony of other inmates. And that's
25 exactly what these reports would be.

1 THE COURT: Yeah, I think I've got to be
2 even-handed here. If I'm going to keep the
3 Government from bringing in people and just being
4 conduits, I've got to do it with the defendants, as
5 well, when they're putting on some of their
6 witnesses.

7 MR. LOWRY: Your Honor, here's the
8 problem: We requested the identity of this
9 confidential informant throughout the duration of
10 this case. And the Government has not produced it.
11 So it painted me into a corner where the best piece
12 of information I have regarding this issue -- we
13 don't know who it is, and this is solely within the
14 custody and control of the Department of
15 Corrections. And if the Court is going to require
16 that I produce the actual declarant, I think it has
17 to put the obligation on the United States and the
18 Department of Corrections to produce this
19 individual.

20 MR. BECK: We've been working on that.
21 They're trying to track down the handler of this CI.

22 THE COURT: The what?

23 MR. BECK: The handler, the corrections
24 officer who handles this CI.

25 THE COURT: So right now you don't know

1 who?

2 MR. BECK: We don't know who it is. I
3 think it's fair for him to ask if he knows who CI-15
4 is. So I think that's fair. If he wants to try to
5 get that out.

6 THE COURT: We'll have to keep working on
7 it. But I don't think that can come into evidence.

8 MR. LOWRY: Okay.

9 (The following proceedings were held in
10 open court.)

11 THE COURT: All right, Mr. Lowry.

12 BY MR. LOWRY:

13 Q. Mr. Blanco, you're familiar with the work
14 of STIU Officer Ruben Archuleta?

15 A. Yes.

16 Q. And STIU Officer Cory Henn?

17 A. Yes.

18 Q. And the information when Mr. Baca had to
19 be removed was based on information developed by
20 those individuals who work under your supervision;
21 correct?

22 A. The information you're refer -- asking
23 about was before my time. I'm not really too
24 familiar with it. I know that the determination for
25 Mr. Baca going back up North was made by myself,

1 after doing some investigation on -- regarding the
2 incident at that point.

3 Q. But I thought you had testified that you
4 had been with the department for 25 years?

5 A. I've been with the department for 25
6 years. But I haven't been with STIU for 25 years.

7 Q. How long have you been with STIU?

8 A. I've been with STIU going on
9 five-and-a-half years.

10 Q. But you were familiar with the work
11 because you're on the paper of sending Mr. Baca, who
12 eventually came back to Southern, in January of
13 2013, for a short period of time?

14 A. I am aware of a little bit of it. But
15 most of the facts that we sent Mr. Baca back was
16 because there was an anonymous note saying that his
17 life was in danger.

18 MR. BECK: Objection, Your Honor.

19 THE COURT: Hold on. Are you trying to
20 elicit out-of-court statements?

21 MR. LOWRY: No, Your Honor, if he
22 understands the reason --

23 THE COURT: Ask him the next question.

24 BY MR. LOWRY:

25 Q. Do you understand the reason why Mr. Baca

1 was removed from Southern and re-placed at Level 6?

2 A. Yes, because I made that determination.

3 Q. And why did you move Mr. Baca from
4 Southern back to Level 6?

5 THE COURT: Why don't you ask him how --
6 what the basis is, so that we know whether it's
7 out-of-court statements or --

8 BY MR. LOWRY:

9 Q. How did you formulate your decision to
10 remove Mr. Baca from Southern back to Level 6?

11 THE COURT: Don't tell us what anybody
12 said. Just tell us how you went about making your
13 decision.

14 A. Just due to intelligence gathered. His
15 life was in danger.

16 MR. BECK: Objection.

17 THE COURT: Sustained, sustained.

18 BY MR LOWRY:

19 Q. Did you, as a professional correctional
20 officer, feel like you could keep Mr. Baca at the
21 Southern facility?

22 A. No.

23 Q. And did you feel he was safer at Level 6?

24 A. Yes.

25 Q. And that was based on information you had

1 received from subordinates and STIU?

2 MR. BECK: Objection, Your Honor.

3 THE COURT: Sustained.

4 MR. LOWRY: I'm not asking for --

5 THE COURT: I still think it is.

6 Sustained.

7 BY MR. LOWRY:

8 Q. Now, you were discussing with the jury the
9 Marcantel -- well, pardon me. Let me withdraw that.

10 You were discussing with the jury the
11 Javier Molina homicide that happened on March 7,
12 2014?

13 A. Correct.

14 Q. And you were telling the jury about the
15 video camera system in place at the Southern
16 facility. Are you familiar with it?

17 A. Yes.

18 Q. Are you familiar with the policy of the
19 Department of Corrections of how to install and
20 monitor and store digital data?

21 A. Not monitor. Possibly not store or -- of
22 course, anything that has to do with other than
23 viewing and downloading, possibly not.

24 Q. So you're not -- are you aware that the
25 Department of Corrections even has a policy?

1 A. Yes.

2 Q. Have you ever reviewed it?

3 A. Some of it.

4 Q. If we had the policy with us, do you think
5 you could recognize it?

6 A. I would be able to recognize it, yes.

7 MR. LOWRY: Can we pull up Defendants'
8 W-4?

9 MR. BECK: Has this been admitted into
10 evidence?

11 MR. LOWRY: No, we can -- can we show it
12 to the witness, W4?

13 THE COURT: You need the monitors for the
14 jury turned off?

15 MR. LOWRY: Just the witness. Yes, Your
16 Honor. If we could turn off the monitors for the
17 witness -- for the jury and just leave the monitor
18 on for the witness.

19 THE COURT: Can you see it, Mr. Blanco?

20 THE WITNESS: No, Your Honor.

21 MR. LOWRY: While she's getting the hard
22 copy, may I approach, Your Honor?

23 THE COURT: You may.

24 BY MR. LOWRY:

25 Q. Mr. Blanco, do you recognize this

1 document?

2 A. Yes.

3 Q. Is that a document you're familiar with?

4 A. Yes.

5 Q. And that's a document you drafted?

6 A. Yes.

7 Q. Is that an accurate and fair depiction of
8 the document you drafted?

9 A. Yes.

10 MR. LOWRY: Your Honor, at this time I'd
11 move for the admission of Defendants' Exhibit ET.

12 THE COURT: Any objection, Mr. Beck?

13 MR. BECK: Yes, Your Honor, this is
14 hearsay.

15 THE COURT: Well, let me -- why don't
16 y'all bring the document up and let me see what it
17 is.

18 (The following proceedings were held at
19 the bench.)

20 MR. BECK: And, Your Honor, the document
21 is not hearsay. The information within the document
22 is hearsay within hearsay, so I have no problem if
23 we redact the paragraph that begins, "On June 26,
24 2013," and ends in "wanted change." I don't have an
25 objection to that coming in because he did sign it.

1 But the information within it is just hearsay.

2 MR. LOWRY: Your Honor, with all due
3 respect, I think the Government waived this. Ms.
4 Duncan got in early on in this case the
5 classification record. It was created as a bookend
6 of this where it states exactly why he was placed in
7 Level 6, and it said that he was placed there
8 because there was a threat upon -- to his physical
9 being.

10 THE COURT: Well, I still think this
11 document itself is hearsay. I think that paragraph
12 is going to be hearsay, so if you want to introduce
13 it in a redacted copy, you can. If that's the
14 critical point, we'll have to keep it out.

15 MR. LOWRY: Well, we'll just call the
16 underlying officer.

17 (The following proceedings were held in
18 open court.)

19 MR. LOWRY: May I approach, Your Honor?

20 THE COURT: You may.

21 BY MR. LOWRY:

22 Q. I'm going to hand you what I've marked for
23 identification purposes as Defense Exhibit W-4. If
24 I could draw your attention to page 4 of that, the
25 camera policy.

1 MR. BECK: Your Honor, is there a question
2 pending, is he refreshing recollection?

3 MR. LOWRY: No, I'm just asking him -- he
4 said he was familiar with the policy, and I'm just
5 verifying his familiarity, whether he's familiar
6 with it or not.

7 MR. BECK: Your Honor, may I voir dire the
8 witness? I'm not sure he's familiar with this
9 document.

10 THE COURT: Well, let him answer this
11 question, and then I'll let you voir dire on the
12 exhibit.

13 BY MR. LOWRY:

14 Q. Have you seen this policy before?

15 A. I've seen the policy before, yes.

16 Q. Are you, in your capacity as STIU
17 Coordinator, are you interested in enforcing this
18 policy for the security of the facility?

19 THE COURT: Why don't I let Mr. Beck do
20 his voir dire at this point, if you're going to go
21 into that line of questioning. Mr. Beck?

22 VOIR DIRE EXAMINATION

23 BY MR. BECK:

24 Q. Coordinator Blanco, have you seen
25 Defendant's Exhibit W-4 before today?

1 A. I've seen it in the past, but it's not
2 something that we deal with.

3 Q. Okay. Are you -- is this -- do you know
4 where this document is kept in the regular course of
5 business?

6 A. We have policies that are kept on our
7 computers that we can access different policies, but
8 I would not know where -- what section that would be
9 in, no.

10 Q. Okay. Do you know who drafted this
11 policy?

12 A. No.

13 Q. And I think you said -- do you interact
14 with this policy in your position as STIU
15 Coordinator?

16 A. No, that's not part of our duties.

17 CONTINUED CROSS-EXAMINATION

18 BY MR. LOWRY:

19 Q. As part of your duties, do you use the
20 video camera system?

21 A. We review video, yes.

22 Q. And you review video because often that's
23 the best evidence you have of what transpires inside
24 the facility?

25 A. Yes.

1 Q. Do you always learn about events
2 contemporaneous, when they happen, like the Julian
3 Romero assault we just viewed? I mean, that's
4 pretty significant. Everybody knows it happened
5 when it happened. But are there other events like
6 the movement of shanks or contraband that you might
7 not find out about until days later?

8 A. Yes. We could go back and review those
9 incidents when we know about them, yes.

10 Q. And sometimes those incidents might not --
11 you might not become aware of them for weeks, or
12 maybe even a month later?

13 A. Correct.

14 Q. And that's why it would be important to
15 have a digital retention policy to keep that video
16 for an extended period of time.

17 A. Correct.

18 Q. In your investigation of the Molina
19 homicide, you said you just reviewed those two
20 videos out of H-U -- 1-A, B pod?

21 A. Yes.

22 Q. Were you aware of, through your
23 investigation, that other people have requested you
24 to review video in different pods?

25 A. In different pods, no.

1 Q. Did you ever think to look at the video in
2 the yellow pod or the green pod to see what was
3 going on?

4 A. Not at that time, no.

5 Q. So you don't recall individuals who --

6 MR. BECK: Objection, Your Honor. I think
7 we're getting into hearsay now.

8 MR. LOWRY: I'm just recalling what he
9 knew.

10 THE COURT: Let me hear the question
11 first, then I'll make a determination.

12 BY MR. LOWRY:

13 Q. Did you ever have a reason to look at the
14 videos in either of the other units -- the pods,
15 rather?

16 THE COURT: Just answer yes or no.

17 A. No.

18 BY MR. LOWRY:

19 Q. Now, with regard to the Molina homicide,
20 at that time, in March 7, 2014 --

21 THE COURT: Let me ask you this: If
22 you're going to go in that direction, would this be
23 a good time for us to take our break?

24 MR. LOWRY: Sure.

25 THE COURT: All right. We'll be in recess

1 for 15 minutes.

2 All rise.

3 (The jury left the courtroom.)

4 THE COURT: All right. We'll be in recess
5 for about 15 minutes.

6 (The Court stood in recess.)

7 THE COURT: All right. Anything we need
8 to talk about before we bring the jury in, Mr. Beck?
9 Mr. Castellano?

10 MR. BECK: No, Your Honor.

11 THE COURT: How about from the defendants?

12 MR. LOWRY: Your Honor, I was just going
13 to see if the Court's inclined to tender what we had
14 offered as the -- this Classification Bureau Chief
15 Placement form as a Business Record exception for
16 the hearsay rule.

17 THE COURT: Is this a different document?

18 MR. LOWRY: No, it's the same one.

19 THE COURT: Okay, just the report itself?
20 Aren't law enforcement records treated differently?

21 MR. LOWRY: They are, and I didn't know if
22 this, in the context of this particular document,
23 whether it be considered law enforcement or agency.
24 I mean, I could see that that would be a close call.

25 MR. BECK: They -- they are, Your Honor.

1 Law enforcement records are treated differently.

2 THE COURT: Tell me which rule covers law
3 enforcement.

4 MR. BECK: I think it would be 803(8) --

5 MR. LOWRY: And, Your Honor, to the extent
6 the Government wants to argue that it's a law
7 enforcement document, I think the argument was made
8 that this was a classification which would be more
9 of a safety issue than internal to the Department of
10 Corrections rather than a law enforcement. This was
11 done for the purpose of protecting Mr. Baca's
12 safety. It wasn't done for a criminal investigative
13 purpose.

14 MR. BECK: To the extent -- I mean, to the
15 extent it would be a business records exception,
16 Your Honor, there is hearsay within hearsay. It
17 does not fit under that exception. It's not
18 something created in the regular course of business.
19 It's created when they have information.

20 And again, it's not -- I think it's a law
21 enforcement document which is not treated as a
22 business records exception. The information that
23 Mr. Mulheron has in there all comes from another
24 source. So it's another --

25 THE COURT: I mean, even with a business

1 record, you have got to -- you can't just send a
2 letter in there and say, you know, that it's
3 admissible just because it's kept by the business.

4 It seems to me you've still got a hearsay
5 problem here, if I remember what that document said.
6 It was reporting what somebody told the writer of
7 that report.

8 MR. LOWRY: And I'm not -- I would agree
9 with that, Your Honor. But in this particular
10 context with dealing with prison inmates and prison
11 populations, what we're seeing through Mr. Blanco's
12 testimony is that the Department of Corrections has
13 a whole agency devoted to gathering just the type of
14 information Mr. Blanco has dedicated the latter part
15 of his career to gathering, and that is the business
16 of the STIU.

17 THE COURT: Well, I'm not seeing it coming
18 in. If it's -- in a criminal case, a public record
19 can be set forth, but I'm not sure these are setting
20 forth factual findings from a legally authorized
21 investigation. It's more just -- is the gathering
22 of information and what people said. So we're not
23 to the findings portion like an airplane crash, and
24 you have the FAA reporting their findings. I think
25 those can be used against the Government.

1 Here we're just looking at the raw data,
2 so I'm not sure we're at the public records
3 exception, and then with the business record, you
4 still have the hearsay within --

5 MR. LOWRY: Well, Your Honor --

6 THE COURT: Put the document in, but I
7 don't know if you can get the evidence in, which is
8 what you're wanting to get, which is the statements.

9 MR. LOWRY: Well, Your Honor, I beg to
10 differ, because what they're doing is holding out
11 this information, and then Mr. Baca would appeal his
12 classification decision. It's based on this
13 information, and then his appeals would be denied
14 based on precisely the same information.

15 So I would say that there were findings,
16 ultimately, and this is just the beginning of a
17 procedural due process issue. This is the initial
18 findings that moved him from Southern to Level 6,
19 and then Mr. Baca would appeal his placement in
20 Level 6 because administrative segregation is a very
21 restrictive environment with his liberty, and the
22 administration would have a hearing, and have
23 findings, and routinely overruled Mr. Baca's due
24 process arguments based on precisely the same
25 information.

1 THE COURT: Well, I'm still not seeing --
2 that all may be true, but I'm not sure it gets the
3 raw data in. So I'm going to keep that document
4 out.

5 All right. All rise.

6 (The jury entered the courtroom.)

7 THE COURT: All right. Everyone be
8 seated. All right. Mr. Blanco, I'll remind you
9 that you're still under oath.

10 Mr. Lowry, if you wish to continue your
11 cross-examination, you may do so at this time.

12 MR. LOWRY: Your Honor, I don't have any
13 further questions on behalf of Mr. Baca.

14 THE COURT: All right. Thank you, Mr.
15 Lowry.

16 Mr. Maynard, do you have questions?

17 MR. MAYNARD: Yes, Your Honor, thank you.

18 THE COURT: Mr. Maynard?

19 CROSS-EXAMINATION

20 BY MR. MAYNARD:

21 Q. Mr. Blanco, is -- I want to go back to the
22 investigation and the follow-up after the homicide
23 relating to Mr. Molina.

24 A. Yes, sir.

25 Q. This is in March of 2014.

1 A. Yes, sir.

2 Q. Now, just to talk a little bit about the
3 context. In this particular building, at the
4 Southern New Mexico facility, there's three pods.

5 A. Yes.

6 Q. In the particular building?

7 A. Yes.

8 Q. All right. And the homicide occurred in
9 one of the three?

10 A. Yes.

11 Q. Now, did the Department of Corrections
12 have what it had concluded -- or felt were SNM
13 members in all three pods?

14 A. Yes.

15 Q. Okay. Now, and you're familiar, of
16 course, with the investigation since then, since
17 March of 2014?

18 A. Yes.

19 Q. And you're also familiar with the fact
20 that Mr. Herrera was not in the pod where they -- he
21 was not housed in the pod where that homicide
22 occurred?

23 A. Correct.

24 Q. Now, you pulled videos from the blue pod
25 where the homicide occurred shortly after the event.

1 A. Correct.

2 Q. And if I understand your testimony when
3 Mr. Lowry was questioning -- or maybe it was Mr.
4 Beck -- these are digital -- or back then they were
5 already digital recording devices, the cameras?

6 A. Yes.

7 Q. So they would -- on a sort of a constant
8 turnover, would hold approximately, according to
9 your understanding, 30 days of footage, of record
10 that -- and it would be constantly retaining,
11 saving, and then on the back side deleting the
12 information. So you would have an historical
13 perspective of as much as 30 days?

14 A. I'm not sure how really it operates. I
15 just know that they were, to my understanding, was
16 possibly 30 days.

17 Q. Okay. Number of days, anyway?

18 A. Yes.

19 Q. All right. And so you pulled the footage,
20 all the cameras in the blue pod to review?

21 A. Yes, the ones that were actually working.

22 Q. And in each pod there is at least three
23 cameras; correct?

24 A. Yes.

25 Q. And the cameras are designed, the angle,

1 to cover the entire pod from one wall to the other?

2 A. Correct.

3 Q. Now, you might have testified that one of
4 the cameras in the blue pod was not working?

5 A. Correct.

6 Q. And in any case, you retained, and we saw
7 angles from two of the cameras in the blue pod.

8 A. Yes.

9 Q. And those cameras are designed -- the ones
10 on the outer angles, not the central camera in each
11 pod, they're designed to cover all the way to the
12 wall, to the door of the adjacent pod?

13 A. Yes.

14 Q. And, in fact, in one case, one of the
15 cameras did cover all the way to the left-hand side
16 of the blue pod?

17 A. Yes.

18 Q. You didn't pull any footage from the
19 yellow pod?

20 A. No, not at that point, no.

21 Q. And of course that footage is gone a long
22 time ago?

23 A. If -- my understanding is 30 days, yes.
24 And on top of that, we have a different camera
25 system, so we don't.

1 Q. And, of course, you didn't pull footage
2 from the green pod.

3 A. No.

4 Q. Now, do you know if the cameras were
5 working in the yellow pod and the green pod, the
6 adjacent pods?

7 A. I don't know that. I only pulled the
8 footage from that particular pod. Somebody may have
9 pulled footage from the other pods, but as it
10 pertains to me, it would be only the blue pod.

11 Q. If that camera footage had been pulled, it
12 would cover all the way to the door, the wall
13 separating, for instance, the yellow pod from the
14 blue pod?

15 A. If operable, yes.

16 Q. And it would have revealed -- it would
17 have shown if any inmates were hanging around the
18 door talking to someone in the neighboring pod, it
19 would be on camera?

20 A. Yes.

21 Q. But of course we don't have that footage?

22 A. Correct.

23 Q. Now, you mentioned that there was lockdown
24 imposed on the entire building after the incident?

25 A. Correct.

1 Q. And how quickly does that occur, and if
2 you could describe to the jury in detail, what do
3 staff members -- what do the correctional officers
4 do?

5 A. The correctional officers actually come
6 into the pod and secure the inmates in their
7 assigned cells, and that's just to, you know, pretty
8 much gain control of that situation, if need be.

9 Q. All right. Now, that was, of course, done
10 in the blue pod where the homicide occurred?

11 A. Correct.

12 Q. And was it done more or less at the same
13 time in the yellow and green pods?

14 A. Well, during an incident we isolate the
15 incident in that pod where it's taking place first,
16 and then -- and then we filter off to the other
17 pods, yes.

18 Q. So the blue pod where the homicide
19 occurred, that was your initial focus?

20 A. That was the initial focus.

21 Q. I guess you have limited staff, so you
22 can't do lockdown on all three pods simultaneously?

23 A. Well, it's -- it's announced in all three
24 pods, but the initial -- or the focus was basically
25 in that pod. And then, again, we filter off to the

1 other ones. Sometimes they -- sometimes the
2 inmates, when it's mentioned to lock it down,
3 they'll do it by themselves.

4 Q. And by the way, were you in the blue pod
5 where the events occurred as the nurse and other
6 staff members were trying to resuscitate Mr. Molina?

7 A. No.

8 Q. So you don't know whether that occurred in
9 the pod or out in the hallway, or --

10 A. No.

11 Q. All right. There is no line of sight
12 between any of the pods in any case. You can't see
13 into one pod from -- you can't see into the blue pod
14 from the yellow or green pod?

15 A. You can, in particular, if you're standing
16 up on the top tiers. You can see through the glass
17 of the tower itself.

18 Q. From the tower?

19 A. Yes.

20 Q. Okay. But not from --

21 A. No.

22 Q. Okay. Not from inside the pod. Now, as
23 part of the lockdown procedure, do the corrections
24 officers search the cells of the inmates in the
25 different pods?

1 A. It depends on the situation. It depends
2 on the incident.

3 Q. Were the cells searched in the blue pod
4 that same afternoon? If you know.

5 A. I don't know.

6 Q. Were the cells in the yellow and green
7 pods, the neighboring pods, were those cells
8 searched that same afternoon or evening? If you
9 know.

10 A. No.

11 Q. Do you know that there were no searches,
12 or you're not sure?

13 A. That particular night -- there were
14 searches, but I don't recall that particular night.

15 Q. All right. Now, so the searches might
16 have occurred later?

17 A. Yes.

18 Q. And you're not familiar with like a few
19 hours later or the next day?

20 A. It's possibly the next day or the next
21 day. I'm not 100% sure.

22 Q. Now, part of STIU's function and
23 information gathering includes screening mail of the
24 inmates; correct?

25 A. Correct.

1 Q. And that involves screening personal mail
2 and legal mail?

3 A. Not legal mail. Personal mail, yes.

4 Q. Is legal mail delivered straight with
5 unopened envelopes to the inmates?

6 A. Yes.

7 Q. Are they opened -- are the envelopes
8 opened in the presence of the inmate -- of the staff
9 member, if you know?

10 A. The legal mail is delivered closed,
11 sealed, to the inmate and it's opened by a staff
12 member.

13 Q. In --

14 A. In the presence of the inmate.

15 Q. In the presence of the inmate?

16 A. Yes.

17 THE COURT: Mr. Lowry, while Mr. Maynard
18 goes to his next question, would you bring that
19 document up that we were discussing at the bench?
20 Would you bring it up here?

21 Go ahead, Mr. Maynard.

22 MR. MAYNARD: Your Honor, I have no other
23 questions.

24 THE COURT: Thank you, Mr. Maynard.

25 Ms. Fox-Young, do you have

1 cross-examination of Mr. Blanco?

2 MS. FOX-YOUNG: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. FOX-YOUNG:

5 Q. Mr. Blanco?

6 A. Yes.

7 Q. Is your office -- in March of 2014, was
8 your office located at the Southern New Mexico
9 Correctional Facility?

10 A. Yes.

11 Q. Who did you report to at that time?

12 A. At that time I reported to Mr. Sweeney,
13 which he at the time was the manager.

14 Q. And where was he, in Santa Fe?

15 A. He's located -- their office is located in
16 Albuquerque.

17 Q. In Albuquerque. So were you running the
18 STIU unit at Southern in March 2014?

19 A. Yes.

20 Q. Okay. So everybody who investigated the
21 Javier Molina death was working for you at Southern?

22 A. All the STIU members, yes.

23 Q. Okay, yes. It's not a trick question.

24 But if -- I'm sorry, everybody --

25 A. Under my command, yes.

1 Q. Okay. And you also were working with some
2 State Police officers on that investigation?

3 A. All we did was actually just escort for
4 them.

5 Q. Okay. Do you remember Agent Palomares
6 being there?

7 A. Yes.

8 Q. Okay. And he was working on that
9 investigation?

10 A. Correct.

11 Q. And you talked about -- is it Officer
12 Mulheron?

13 A. No, that was -- at the time it was Deputy
14 Mulheron.

15 Q. So Deputy Mulheron worked for you?

16 A. No.

17 Q. Who did he work for?

18 A. He works under the warden, the facility
19 warden.

20 Q. But he was located at Southern New Mexico?

21 A. Yes.

22 Q. And he was the deputy of the whole
23 facility?

24 A. He's a deputy warden. There's two deputy
25 wardens for the inside and one for the Level 2.

1 Q. Okay. You talked about going into Deputy
2 Mulheron's office and seeing a walker; is that
3 right?

4 A. Correct.

5 Q. Let's take a look at Government's Exhibit
6 89. And while we're pulling that up -- tell me
7 again when you started at Southern New -- when you
8 started to -- office out of Southern New Mexico
9 Correctional Facility?

10 A. When I started working there?

11 Q. Yes, physically.

12 A. Yes, physically I started working in 1993.
13 And that's in March of 1993.

14 Q. Is this '89? Okay.

15 And so were you there when Mr. Perez
16 arrived in late 2013?

17 A. Yes.

18 Q. And were you aware of Mr. Perez' health
19 conditions?

20 A. To an extent, yes.

21 Q. Okay. You knew that he needed a walker to
22 get around?

23 A. Yes.

24 Q. And you also knew, did you not, that he
25 had been in the prison hospital in Los Lunas for

1 about a year prior to his arrival?

2 A. I don't know the timeframe, but yes.

3 Q. And you knew that he'd also been in and
4 out of the University of New Mexico Hospital for
5 various problems that he'd had?

6 A. No, that I didn't.

7 Q. But you knew he'd come from the prison
8 hospital in Los Lunas.

9 A. Yes.

10 Q. And he needed a walker to get around.

11 MS. FOX-YOUNG: Okay. Well, let's just
12 use the paper one. Don't worry, Cindy.

13 BY MS. FOX-YOUNG:

14 Q. I'm going to show you Government's Exhibit
15 90, and you testified that this was the walker that
16 you saw in Deputy Mulheron's office; right?

17 A. Yes.

18 Q. Can you tell if it was photographed in
19 Deputy Mulheron's office?

20 A. Yes.

21 Q. How can you tell?

22 A. Just the carpeting, and just the way the
23 stuff was there around it.

24 Q. Okay. And when you saw it, you noticed
25 there was a piece missing?

1 A. Actually, there is a piece missing on both
2 sides.

3 Q. Oh, okay. So there is a piece missing
4 here on this side where the -- where it's tied;
5 right?

6 A. Correct.

7 Q. And you visualized that. Do you know what
8 day that was that you saw it?

9 A. I -- it must have been possibly a week
10 after the Molina murder.

11 Q. And do you know how it came to be that
12 there was a piece missing?

13 A. Yes. It was through investigations or one
14 of my officers doing an interview on Mr. Perez.

15 Q. Which officer was that?

16 A. That's my K-9 specialist, Ernie Holguin.

17 Q. Okay. And Ernie Holguin, he -- did he
18 interview a number of individuals who were housed at
19 Southern New Mexico Correctional Facility?

20 A. Yes.

21 Q. And let me just get this straight: The
22 individuals, including Mr. Perez, who were housed in
23 blue pod, had no say about that; right? New Mexico
24 Corrections Department put them in blue pod?

25 A. Yes.

1 Q. Okay. And so you knew from Officer
2 Holguin -- and I don't want you to tell me anything
3 anybody said -- I'm not trying to elicit any hearsay
4 from you -- but you knew from Officer Holguin that a
5 piece had gone missing?

6 MR. BECK: Objection, Your Honor. I think
7 this is hearsay.

8 THE COURT: I think it is, too.
9 Sustained.

10 BY MS. FOX-YOUNG:

11 Q. I'm trying to avoid hearsay, Mr. Olguin --
12 I'm sorry, Mr. Blanco. But you -- and I don't want
13 to mischaracterize your testimony, but you just told
14 me you knew through the course of the investigation
15 done by your STIU officers about this walker?

16 A. Correct.

17 Q. And you said that about a week after
18 Javier Molina died, you saw it in Deputy Mulheron's
19 office and you knew that a piece was missing
20 already?

21 A. Yes.

22 Q. Before you saw it?

23 A. Yes.

24 Q. And that you learned through the course of
25 the investigation?

1 A. Through interviews, yes.

2 Q. Okay. And did your investigation -- or
3 Officer Holguin's investigation cover who took the
4 piece?

5 A. I'm not sure.

6 Q. You're not sure?

7 A. I'm not -- yes, it did cover it, but I'm
8 not sure. I would have to read it to see the names
9 on there.

10 Q. Okay. Isn't that something that would be
11 important to know in investigating a death?

12 A. Yes.

13 Q. Okay. Let me just ask you, what did you
14 do in preparation for your testimony today?

15 A. Possibly read a couple notes.

16 Q. Whose notes?

17 A. My notes.

18 Q. Oh, okay. Were those notes that were
19 taken in 2014?

20 A. Yes. Just documents that were from that
21 particular incident.

22 Q. Did you bring them today?

23 A. No, I didn't.

24 Q. And did you review any other reports?

25 A. I reviewed the assault on Romero.

1 Q. Okay. And I'm only talking to you about
2 Javier Molina right now, but I understand you
3 reviewed that.

4 A. Right.

5 Q. You also met with the prosecutors?

6 A. Yes.

7 Q. And did they provide you with any
8 materials?

9 A. They -- the incident report on Romero, and
10 that's it.

11 Q. Okay. And you recall, do you not, that
12 the STIU officers who you had investigating after
13 Javier Molina died, provided you with a number of
14 memos; is that right?

15 A. Yes, they provided documentation of all
16 the interviews conducted.

17 Q. And they interviewed everybody in blue
18 pod?

19 A. We interviewed everybody in that whole
20 unit.

21 Q. Okay. In all three pods?

22 A. Correct.

23 Q. Did you review those memos prior to today?

24 A. No.

25 Q. Okay. And so you agree with me that it's

1 important to know who took this piece?

2 A. Correct.

3 Q. But sitting here today, you don't know who
4 took it?

5 A. I don't recall the name. I just -- there
6 was a lot of memos at that point in time, but I'm
7 sure it's on the memo.

8 Q. Okay. And that was part of your
9 investigation, to try to figure out who had taken
10 that piece?

11 A. Yes.

12 Q. Doesn't it matter if someone went in to
13 Rudy Perez' cell and took the piece?

14 A. Yes.

15 Q. That's critical to your investigation,
16 right?

17 A. Yes.

18 Q. So you guys looked into that?

19 A. Yes.

20 Q. And there were some findings in that
21 regard?

22 A. Correct.

23 Q. You talked about the video evidence that
24 was collected portraying -- I guess captured a few
25 minutes portraying the murder itself; right?

1 A. Yes.

2 Q. And you have viewed that video?

3 A. Yes.

4 Q. And the Government didn't walk you through
5 that video today. I'm not talking about the video
6 of Mr. Romero. But you have viewed that video. On
7 that video have you been able to identify Jerry
8 Armenta?

9 A. Yes.

10 Q. And have you also been able to identify
11 Jerry Montoya?

12 A. Yes.

13 Q. And how about Tim Martinez?

14 A. Yes.

15 Q. And how about Mario Rodriguez?

16 A. Yes.

17 Q. Okay. And all of them active participants
18 in the killing?

19 A. Yes.

20 Q. Let's put up Government's Exhibit 586. Do
21 you know this to be Mario Rodriguez --

22 A. Yes.

23 Q. -- who you identified in the video?

24 A. Yes.

25 Q. Now, how long have you known Mario

1 Rodriguez?

2 A. Possibly ever since he came into our
3 institution and we put him in our SNM unit.

4 Q. A number of years?

5 A. I couldn't tell you. It's probably been
6 like maybe more than five.

7 Q. He has a reputation?

8 A. He has a reputation, yes.

9 Q. What is that?

10 A. He has a reputation of possibly violent
11 behavior and --

12 Q. You'd agree with me that he's difficult to
13 control?

14 A. I would say it would -- depending on the
15 situation. But I mean, I don't know, it just
16 depends on the individual itself -- himself.

17 Q. This individual, would you say Mario
18 Rodriguez is difficult to control?

19 A. No, not at our institution. He hasn't had
20 that -- as far as us controlling him, no.

21 Q. And you're aware of his violent history in
22 the institution?

23 A. Yes.

24 Q. Okay. And you're aware of his role in the
25 killing of Javier Molina?

1 A. Yes.

2 Q. But you don't know who took the piece off
3 of Mr. Perez' walker?

4 A. If I'm not mistaken, on my recollection of
5 that --

6 MR. BECK: Objection, Your Honor.

7 MS. JACKS: It seems to call for hearsay.

8 THE COURT: Yes, let's don't go there.

9 BY MS. FOX-YOUNG:

10 Q. Mr. Blanco, you also -- and tell me if
11 this wasn't in the course of STIU's investigation,
12 we won't talk about it -- but are you familiar with
13 the floor plan for blue pod?

14 A. Yes.

15 Q. It hasn't changed much in the last several
16 years; right?

17 A. Since it was built, I would say no.

18 Q. Hasn't changed at all?

19 A. No.

20 MS. FOX-YOUNG: Your Honor, I'd like to
21 publish for the jury -- and I don't think the
22 Government objects to the admission of their Exhibit
23 164.

24 THE COURT: Any objection, Mr. Beck?

25 MR. BECK: No objection.

1 THE COURT: Anybody else? Any defendant
2 have an objection? Not hearing any, Defendants'
3 Exhibit 164 will be admitted into evidence. I guess
4 it will be Government's Exhibit 164.

5 MR. BECK: Your Honor, let's --

6 MS. FOX-YOUNG: Your Honor, I'm going to
7 use the paper one. The Government has a mistake on
8 the electronic one, so we've just blacked it out.
9 And we'll use this.

10 THE COURT: All right. What should it be?
11 Are you comfortable with it being Government's
12 Exhibit 164?

13 MR. BECK: No. I think it should probably
14 be Defendants'.

15 THE COURT: Why don't you give it its own
16 number then, since we're --

17 MS. FOX-YOUNG: Your Honor, I'd like to
18 publish for the jury what we're marking Defendants'
19 Exhibit EU.

20 THE COURT: Still no objection, Mr. Beck?

21 MR. BECK: No objection.

22 THE COURT: All right. So Defendants'
23 Exhibit EU will be admitted into evidence.

24 (Defendants' Exhibit EU admitted.)
25

1 BY MS. FOX-YOUNG:

2 Q. All right. Mr. Blanco, do you recognize
3 this diagram?

4 A. No, I haven't seen this diagram.

5 Q. Do you know what it is of? I know I just
6 put it up, but you can take a minute to look at it.

7 A. It -- it's one of the pods in the
8 institution.

9 Q. Can you tell which pod -- and I'll tell
10 you this came from State Police, and there is an
11 indication on the top of it which says, "B pod 1-A
12 depicting lower level with approximate evidence
13 location." Do you have any reason to dispute that
14 this is the lower level of B pod 1-A?

15 A. No.

16 Q. And through the course of your
17 investigation, you considered which inmates were in
18 which cells, did you not?

19 A. No, I don't recall, other than if this is
20 a lower tier, we're basically focusing more on the
21 top tier because that's where the incident actually
22 took place.

23 Q. So you don't actually know who was housed
24 in any of these cells on March 7, 2014?

25 A. No, not off the top of my head. I would

1 have to go back and review my documentation as to
2 who was in what cell at that time.

3 Q. I will represent to you that Mr. Rudy
4 Perez was in this cell, 115, which I'm zooming in
5 on. And I think you said that you had seen Mr.
6 Perez in his cell; is that right?

7 A. Correct.

8 Q. And you had seen his walker in his cell?

9 A. Yes.

10 Q. There is -- in each of these cells, there
11 is a hamper area close to the door; is there not?

12 A. Yes, right to the right of the door, or to
13 the left of the door, depending on how it opens.

14 Q. Okay. For cell 115, I'm circling an area.
15 Do you know that to be the hamper area?

16 A. Yes.

17 Q. And Mr. Perez was in a cell where that
18 area had been modified and the metal piece for the
19 hamper had been removed so that the walker could sit
20 out front; was it not?

21 A. I don't believe that it was because of
22 that situation. A lot of the cells in that
23 particular area -- a lot of hamper areas have been
24 removed.

25 Q. Okay. Do you remember that being termed a

1 "handicapped cell" where the hamper was removed?

2 A. No. There are various cells that it had
3 been removed just because it was in that unit.

4 Q. Do you remember it being used as a
5 handicapped cell because the hamper wasn't in there?

6 A. No, it was never labeled or utilized as a
7 handicapped.

8 Q. Do you remember seeing Mr. Perez' walker
9 out front in the area where the hamper used to be?

10 A. I saw his walker in his cell.

11 Q. And that's where the walker would sit and
12 fit, right?

13 A. Right.

14 Q. Okay. And so you saw it there by the door
15 to the cell just to the left where this hamper area
16 is indicated?

17 A. The hamper area is actually inside the
18 cell. It's not on the exterior of the cell.

19 Q. Right. And that's what I've circled here.

20 A. Right, it would be on the inside, yes.

21 Q. And you don't remember where Mario
22 Rodriguez was housed?

23 A. Where who?

24 Q. Mario Rodriguez was housed?

25 A. No.

1 Q. I'd like to show you Government's Exhibit
2 79. Do you know who this is?

3 A. Yes.

4 Q. Who is it?

5 A. Rodriguez.

6 Q. That's Mario Rodriguez. And do you know
7 when this photograph was taken?

8 A. No, I don't.

9 Q. I'll represent to you that in earlier
10 testimony it was testified to that this photograph
11 was taken on the night of the murder -- of Mario
12 Rodriguez.

13 And I'd like to show you Government's
14 Exhibit 76. Have you ever seen this photo?

15 A. No.

16 Q. Do you know what it is, looking at it
17 today?

18 A. Stainless steel toilet in the cells.

19 Q. Okay. Do you recall any result of the
20 investigation pertaining to what Mario Rodriguez did
21 vis-a-vis a toilet?

22 MR. BECK: Objection, Your Honor. I think
23 this calls for hearsay, too.

24 THE COURT: Well, just a yes/no answer to
25 this question.

1 A. No.

2 BY MS. FOX-YOUNG:

3 Q. Do you recall? You don't know anything
4 about that?

5 A. No.

6 Q. Okay. Can you see if there is anything in
7 that toilet?

8 A. It appears to be like dirty water, plastic
9 or something.

10 Q. Looks like there is some plastic, maybe
11 Saran floating in there?

12 A. Correct.

13 Q. I'd like to show you Government's Exhibit
14 141 -- oh, no, I'm sorry, Exhibit 74. Do you know
15 what's depicted in this exhibit?

16 A. It's a stainless steel sink that's also in
17 the cells. And a green garment -- uniform -- that
18 inmates wear in our institution.

19 Q. Do you know who that garment belonged to?

20 A. No, I don't.

21 Q. I'll represent to you that earlier
22 testimony was that the garment belonged to Mario
23 Rodriguez, and that blood was found on it. Did --
24 is that something that you knew in the course of
25 your investigation?

1 A. No.

2 Q. Okay. So the video that you reviewed was
3 only for -- it just began, I guess, a few minutes
4 prior to the death of Javier Molina; is that right?

5 A. Correct.

6 Q. Now did you ever view any video from
7 earlier that day?

8 A. We viewed some video, but not -- I mean,
9 throughout the course of the day, it was basically
10 focused on that particular incident at the time of
11 the incident.

12 Q. Didn't you want to see video from earlier
13 that day to see if you could tell if someone went
14 into Rudy Perez' cell and took something?

15 A. It's a possibility, but I don't believe
16 that video -- we couldn't see that video. I think
17 that was camera 3 that focused on that cell on 15.

18 Q. Okay. Well, we can pull the cameras up.
19 But you don't remember looking at any video earlier
20 that day?

21 A. I reviewed video -- the video that is on
22 the camera that's -- that we submitted. That's the
23 video I reviewed.

24 Q. Because it would be important to see
25 whether there was evidence of somebody going into

1 Mr. Perez' cell?

2 A. Possibly, yes.

3 Q. Okay. And if you had learned that
4 somebody had gone into Mr. Perez' cell, in the
5 course of your investigation, to take that piece,
6 you would have wanted to continue investigating
7 that; right?

8 A. Correct.

9 Q. And to learn maybe what happened inside
10 that cell?

11 A. Yes.

12 Q. And, in fact, your STIU officers did
13 conduct interviews with regard to that portion of
14 your investigation.

15 A. Not with the portion of that
16 investigation. It was known after the
17 investigation, possibly, maybe half a week, a week.

18 Q. Okay. So half a week or a week later, it
19 was pretty important to figure out if somebody had
20 gone into Mr. Perez' cell and taken that piece;
21 right?

22 A. Yes.

23 Q. And important to understand the
24 circumstances under which that happened; right?

25 A. Yes.

1 Q. It was significant to know how the piece
2 was taken?

3 A. Yes.

4 Q. Who took it?

5 A. Yes.

6 Q. And why?

7 A. Correct.

8 MS. FOX-YOUNG: Your Honor, may I
9 approach?

10 THE COURT: You may.

11 MS. FOX-YOUNG: May we approach?

12 (The following proceedings were held at
13 the bench.)

14 MS. FOX-YOUNG: Your Honor, I am following
15 the Court's instruction that I am to approach before
16 I discuss anything with regard to threats. This
17 witness knew from multiple different witnesses just
18 after the time of the murder that Mr. Perez was
19 threatened. And the Government has already
20 referenced Deputy Mulheron. There are others. He
21 received memos. I mean, I can go through them and
22 give the Court a process of exactly what questions I
23 would ask him and what I expect the answers to be.
24 But there are memos with regard to the threats
25 against Mr. Perez. And I just referenced our two

1 trial briefs. And, you know, this is the time I
2 would get into that testimony.

3 THE COURT: Well, I guess you can ask him
4 whether he has any information that he personally
5 observed or saw any threats. But if he doesn't
6 answer that question, if he doesn't get anything on
7 that, then anything else he's going to know is
8 hearsay.

9 MS. FOX-YOUNG: It's in the course of his
10 investigation, just as when Acee gets up and talks
11 about the investigative steps they've taken. This
12 is offered for a non-hearsay purpose, what steps
13 were taken when you learned this.

14 THE COURT: You can ask about his
15 investigation. But I think that's different than
16 asking him whether other people told him that there
17 were threats.

18 MR. BECK: I think what they can ask is --
19 I think they can ask, as Your Honor said, if he has
20 any personal information, not threats. Then I think
21 they can ask at some point in the investigation:
22 Did you move Rudy Perez up to the North? I think
23 that's fine. But I think if he gets into why he was
24 moved or did you get information about threats,
25 that's all hearsay.

1 MS. FOX-YOUNG: Well, I've got to be able
2 to ask him what are the next investigative steps
3 that you took upon learning about the threats, and
4 you know --

5 THE COURT: I don't think you can do that.
6 I think you can probably give him the moves that he
7 made. But his state of mind is not particularly
8 important here. What you're trying to get in is
9 largely what Mr. Perez was saying to investigators.

10 MS. FOX-YOUNG: I have a good faith basis,
11 Judge, I'm --

12 THE COURT: I'm not saying you don't. But
13 still I think you're trying to get in hearsay
14 statements. So we have to observe the rules and
15 proceed that way.

16 MS. FOX-YOUNG: Well, I'll just -- as
17 previously noted, I think the Court is cutting into
18 our ability to present a defense on this. But I
19 will -- in front of the jury I will limit my
20 questions.

21 Will the Court permit me to ask if he's
22 aware of what investigative steps were taken? Well,
23 first, whether he has any knowledge of any threats
24 against Mr. Perez, and then, depending on his
25 answer --

1 THE COURT: I think that question just --
2 I think that's just -- it's just inviting hearsay.
3 I think you can ask the question: Did he ever
4 observe any threats? Did he see -- does he have any
5 personal knowledge of threats?

6 MS. FOX-YOUNG: Okay.

7 THE COURT: You can ask those questions.
8 (The following proceedings were held in open court.)

9 THE COURT: Ms. Fox-Young?

10 MS. FOX-YOUNG: Thank you, Your Honor.

11 BY MS. FOX-YOUNG:

12 Q. Mr. Blanco, do you have any personal
13 knowledge of any threats made against Mr. Perez in
14 the time period just before Javier Molina was
15 killed?

16 A. No.

17 Q. Can you tell me what steps, if you
18 remember, if you know, what steps your investigators
19 took after conducting their interviews of inmates in
20 blue pod?

21 A. Some of the inmates were moved to
22 different units.

23 Q. Okay. And Mr. Perez was moved?

24 A. Mr. Perez was moved, yes.

25 Q. Do you know why Mr. Perez was moved?

1 A. Initially he was just moved because we
2 were placing different inmates in different areas
3 throughout the facility. Some inmates were also
4 transferred out of the facility at one point.

5 Q. And Mr. Perez was moved up north to the
6 Penitentiary of New Mexico?

7 A. Mr. Perez was moved over to the housing
8 unit 2, I believe. Housing unit 2.

9 Q. And subsequently, he was moved to the
10 Penitentiary of New Mexico?

11 A. Correct.

12 Q. Where he was held for about two years?

13 A. Correct.

14 Q. Do you know why he was held for that long?

15 MR. BECK: Objection, Your Honor.

16 MS. FOX-YOUNG: If you know.

17 THE COURT: I'm sorry, I didn't hear
18 exactly the question, again.

19 MS. FOX-YOUNG: Your Honor, the question
20 was --

21 THE COURT: Did you ask where or why?

22 MS. FOX-YOUNG: Does he know why Mr. Perez
23 was moved, or why Mr. Perez was held at the
24 Penitentiary of New Mexico for about two years?

25 THE COURT: Well, it's a yes/no, question.

1 Just answer yes/no.

2 A. Yes.

3 BY MS. FOX-YOUNG?

4 Q. Can you tell me why?

5 THE COURT: Well --

6 MR. BECK: Objection, Your Honor.

7 MS. FOX-YOUNG: If he has personal
8 knowledge, Your Honor.

9 THE COURT: Well, if he has personal
10 knowledge. You didn't get it from some other
11 source, somebody didn't tell you, but you have
12 personal knowledge. Do you have personal knowledge?

13 A. Yes.

14 MR. BECK: I don't think he's
15 understanding what that means. If he moved Mr.
16 Perez, then I think he would have personal
17 knowledge.

18 THE COURT: Well, why don't you come up to
19 the bench. And Mr. Blanco, why don't you come up
20 here, too, and I'll hear your testimony.

21 (The following proceedings were held at
22 the bench.)

23 THE COURT: Tell me, Mr. Blanco, why was
24 he moved?

25 THE WITNESS: He was moved after the

1 murder. That's where we determined that the cause
2 of death -- or the shanking, he was moved, just like
3 all the other inmates involved in the situation.
4 The North facility was more secure. It's a Level 6
5 facility. So that's why he was moved up there.

6 THE COURT: I don't see any problem with
7 that answer, do you?

8 MR. BECK: That's fine.

9 MS. FOX-YOUNG: Your Honor, the
10 Corrections Department in previous pleadings in
11 suppression argued that he was held there for his
12 own safety. So I'm going to impeach him with that,
13 if that's what he says.

14 THE COURT: Well, do you --

15 MR. BECK: If those are his statements, I
16 think it's fair to impeach him with that. They're
17 not his statements.

18 THE COURT: Did you ever tell anybody or
19 make any statements that he was being held there for
20 his own safety?

21 THE WITNESS: No.

22 THE COURT: Do you have any knowledge that
23 he was being held for his own safety?

24 THE WITNESS: No.

25 THE COURT: I think if the question is

1 asked, those are going to be the answers.

2 MR. BECK: That's fine.

3 MS. JACKS: We think it's based on hearsay
4 and we'd object.

5 THE COURT: He's going to say he doesn't
6 have any -- nothing -- I mean, nothing you're saying
7 based on hearsay if he has no knowledge.

8 MS. FOX-YOUNG: If he doesn't have
9 personal knowledge, I'm not going to go into this.

10 THE COURT: Okay.

11 (The following proceedings were held in
12 open court.)

13 BY MS. FOX-YOUNG:

14 Q. Just a moment, Mr. Blanco.

15 Mr. Blanco, do you recall talking with an
16 individual -- I don't want you to tell me what he
17 said, I'm not trying to elicit hearsay from you --
18 an individual named Paul Valenzuela in 2014?

19 A. No.

20 Q. You don't remember that?

21 A. I don't remember talking to him. I've
22 talked to him in the past, but I'm not for certain
23 that was around that time.

24 Q. If I showed you a report from the FBI,
25 would it refresh your memory?

1 A. Yes.

2 MS. FOX-YOUNG: Your Honor, may I approach
3 the witness?

4 THE COURT: You may.

5 BY MS. FOX-YOUNG:

6 Q. Mr. Blanco, I'm just directing your
7 attention to this third paragraph. Take a minute to
8 look. Just tell me when you're done.

9 Mr. Blanco, does that refresh your
10 recollection of this meeting?

11 A. No.

12 Q. Oh.

13 A. No.

14 Q. And so you don't believe that you ever
15 talked with a Mr. Paul Valenzuela in 2014?

16 A. I've talked to Mr. Paul Valenzuela, but
17 never with that situation in Molina. I never talked
18 to Paul Valenzuela about Molina.

19 Q. You never talked to him about a green
20 light on Molina?

21 A. No.

22 Q. And that didn't happen before Javier
23 Molina died?

24 A. No. I never knew anything about a green
25 light on Molina until after the assault.

1 Q. And so it isn't true that you knew about
2 the green light before Molina died and failed to
3 protect him?

4 A. No.

5 Q. When is the last time you talked to Paul
6 Valenzuela?

7 A. I don't recall when the last time was. It
8 was prior -- prior to him getting out of Southern.

9 Q. The inmates housed in 2014 at Southern, in
10 those SNM pods, you told me they didn't choose to be
11 there. The Corrections Department put them there;
12 right?

13 A. Yes.

14 Q. And --

15 A. We house them there. I mean, the housing
16 assignments are -- they're SNM; that's where they
17 go, yes.

18 Q. And the only way to get out of one of
19 those pods is to go into protective custody; right?

20 A. Not necessarily, no.

21 Q. Oh, how else can you get out?

22 A. It just depends on the circumstances.
23 There's individuals I have -- I guess, gone through
24 the process of, you know, decertifying or they're
25 saying they're not SNMers. So we look into that,

1 and the possibility -- you know, if it comes back
2 that our investigation isn't correct, they might be
3 able to get out.

4 Q. And what happens to individuals who talk
5 to STIU or law enforcement about the SNM?

6 A. What do you mean? I mean, I don't
7 understand.

8 Q. Let me put it this way: You'd agree with
9 me, would you not, that they put their lives in
10 danger with the SNM by talking to law enforcement?

11 A. Yes.

12 Q. And they often get killed?

13 A. Yes.

14 THE COURT: Mr. Lowry, did you bring me up
15 the other document? You gave me the one -- the 2011
16 report. Did you give me the other one?

17 MR. LOWRY: Yes, Your Honor, I did.

18 THE COURT: You gave me both of them?

19 MR. LOWRY: It's a single page.

20 MS. FOX-YOUNG: Your Honor, I'll pass the
21 witness.

22 THE COURT: I think you just gave me this
23 three-page report.

24 All right. Thank you, Ms. Fox-Young.

25 Ms. Jacks, do you have cross-examination

1 of Mr. Blanco?

2 MS. JACKS: I do, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. JACKS:

5 Q. Good afternoon, Mr. Blanco.

6 A. Good afternoon.

7 Q. I want to talk to you just for a minute
8 about Javier Molina. As the head of the STIU unit,
9 did you have -- did you personally know Mr. Molina?

10 A. I've talked to him. I talked to
11 Mr. Molina before as I've talked to all the other
12 inmates in there.

13 Q. I'm sorry, I couldn't hear.

14 A. I talked to Mr. Molina prior -- yes, just
15 like I did every other inmate in there.

16 Q. Okay. And were you aware of his
17 activities at -- in the pod at Southern New Mexico
18 Correctional Facility?

19 A. Activities as --

20 Q. How he behaved, how he conducted himself?

21 A. Yes.

22 Q. All right. Do you have an opinion about
23 what his reputation was?

24 A. No.

25 Q. I want to talk to you a little bit about

1 the video. Were you the person that was in charge
2 of deciding what video got turned over to the New
3 Mexico State Police?

4 A. No, they just got all turned over. Not
5 necessarily what -- they were all just turned over
6 to the State Police. Not necessarily one or the
7 other.

8 Q. Okay. Well, you're the person that turned
9 them over; right?

10 A. Yes, they were all turned over.

11 Q. So I'm assuming that what had to happen if
12 this video is like digital and it gets backed up to
13 a computer, somebody had to take a certain segment
14 of video off and hand it to the State Police; right?

15 A. Yes.

16 Q. How -- how is that physically done,
17 downloading it onto a DVD?

18 A. Onto a disc.

19 Q. And was that something that somebody did
20 at your direction?

21 A. That was something I did.

22 Q. You did, okay.

23 A. Yes.

24 Q. And you downloaded the video onto a disc
25 from two of the three cameras in blue pod; is that

1 right?

2 A. Yes.

3 Q. And you did it that night, the night of
4 March 7, 2014?

5 A. Yes.

6 Q. Can you tell us from what time to what
7 time you actually downloaded onto that disc to give
8 to the State Police?

9 A. I don't recall times. I mean, it was -- I
10 know it was late. But I don't recall the times.

11 Q. I don't mean when you physically did it.
12 I mean, what portion of the video from March 7 did
13 you give the State Police? In other words, did you
14 give them video from 5:00 p.m. to 7:00 p.m.? Did
15 you give them video from 5:00 p.m. to 5:15? What
16 did you give them?

17 A. I didn't look at times. I looked at just
18 events of what was transpiring on the video itself
19 and started recording from that event to the end of
20 that event.

21 Q. Okay. So did you write down anywhere or
22 record anywhere the portion of the video from that
23 day? Is there something you could look at to tell
24 us the times of day?

25 A. No, other than what's showing on the video

1 itself. It will tell you the time on top.

2 Q. Okay. Can you tell us, was it the same
3 timeframe for both cameras?

4 A. The same timeframe as far as --

5 Q. What you provided to the police?

6 A. Yeah, close to.

7 Q. And do you have an idea in your mind
8 whether what -- whether you provided them, you know,
9 10 or 15 minutes of video, versus 10 or 15 hours?

10 A. No, I don't recall the hours or the
11 timeframe of that.

12 Q. But do you know, like the segment that you
13 gave up -- that you gave them -- to the State
14 Police, do you know how long approximately it was?

15 A. Honestly, I couldn't tell you. I could
16 tell you, you know, it's been two minutes, three
17 minutes, but I wouldn't -- but I'm not sure how
18 many -- exactly how many minutes I recorded or
19 downloaded onto --

20 Q. Okay. But what your -- I guess your
21 answer was that you gave them some segment that
22 could be measured in minutes?

23 A. Yes. And that's why the time was on that
24 video. I mean, I never write it down as far as this
25 is what I gave them from this time to this time.

1 Q. Okay. Have you looked at the exhibits --
2 I think they are Defense I-1 and 2? Can we just
3 pull up I-1? I think we marked it as a Government's
4 Exhibit because there was an objection. It's a
5 Government Exhibit. It's 11. Sorry about that. I
6 just want to -- I want you to look at the exhibit
7 and tell us if that is, in your recollection, the
8 entirety of the video to the State Police from that
9 particular camera angle.

10 A. Okay.

11 Q. Do you see the time stamp in the upper
12 left-hand corner?

13 A. Yes.

14 Q. And -- my eyes aren't that great, but it
15 looks like it says 17, 15, and 12 seconds?

16 A. Correct.

17 Q. And this is the correctional officers
18 escorting the nurse to hand out the medication?

19 A. Yes.

20 Q. Based on your recollection of what you
21 provided the police, is that approximately -- is
22 that when you started the video?

23 A. Yes.

24 Q. Was the last portion of the video that you
25 provided the police when the correctional officers

1 entered the pod after Mr. Molina was stabbed?

2 A. Yes, around there.

3 Q. Maybe what we can do to save time is fast
4 forward to -- towards the end of the video and see
5 if that's what the witness remembers.

6 Is that the end?

7 A. Yeah, I believe so.

8 Q. Looks like this is 17, 27, and 16 seconds.

9 Looks likes we're basically at the end,
10 17, 29, and 59 seconds.

11 So having just reviewed that, can you tell
12 us that that's the complete video from this camera
13 angle that you turned over to the New Mexico State
14 Police?

15 A. That's -- yes.

16 Q. And it would have been the same or pretty
17 much the same time period for the other working
18 camera?

19 A. Yes, possibly around the same.

20 Q. And that night, did you pull any -- did
21 you make any DVDs from video on any of the other
22 pods on Unit 1-A?

23 A. No.

24 Q. Your investigation started on March 7 and
25 it was ongoing for some period of time; correct?

1 A. Correct.

2 Q. And you were -- I think you said you
3 escorted the State Police to interview the inmates?

4 A. I escorted -- we escorted the inmates to
5 State Police.

6 Q. I got it backwards; escorted the inmates
7 to be interviewed by the State Police?

8 A. Right.

9 Q. And did you actually sit -- sit in on
10 those interviews?

11 A. No, because at that point in time they
12 were reading Miranda rights, so therefore they
13 didn't want anybody else in there.

14 Q. They didn't want any correctional officers
15 present?

16 A. No. We interviewed them afterwards when
17 the State Police was done with their primary
18 investigation -- or their interviews that we
19 interviewed them after.

20 Q. Okay. And did you also confer with State
21 Police regarding the results of those interviews,
22 what they were finding out?

23 A. Yeah. We gave them some information as
24 far as, you know, what we were finding out.

25 Q. Did you also interview -- well, did the

1 State Police interview correctional officers?

2 A. Yes.

3 Q. And did you also interview correctional
4 officers?

5 A. No, I didn't interview corrections
6 officers.

7 Q. That investigation of interviewing inmates
8 and interviewing correctional officers, is it fair
9 to say that that took place over the next several
10 days?

11 A. Yes.

12 Q. Okay. And in conducting that
13 investigation, I'm assuming that you were provided
14 information about what may have happened?

15 A. Correct.

16 Q. And one -- or I guess one of your
17 responsibilities is to try to determine if the
18 information you're being provided is either true or
19 not true?

20 A. Correct.

21 Q. And particularly within a prison
22 environment, there's reasons when you're
23 interviewing inmates, there's reasons that sometimes
24 inmates may tell you something to -- in an attempt
25 to manipulate you or in an attempt to get some

1 benefit for themselves?

2 A. Correct.

3 Q. Would you agree?

4 A. Yeah.

5 Q. So in interviewing inmates, it's something
6 that you can't just take at face value; you need to
7 look for information to either prove or disprove the
8 truth of the -- of what the people are telling you?

9 A. Correct.

10 Q. Based on the interviews that were
11 conducted in the days after the Molina homicide, did
12 you ever go back to the computer system -- the
13 computer that stores the video -- and pull any
14 additional video from blue pod?

15 A. No.

16 Q. Based on the information that developed in
17 the days after the Molina homicide, did you ever go
18 back and pull any video from yellow pod?

19 A. No, I didn't.

20 Q. Did you ask or cause somebody else to do
21 that?

22 A. No, I didn't.

23 Q. Did you ever view -- you, personally --
24 ever view any additional video from blue pod or
25 yellow pod in the days after the Molina homicide?

1 A. Just what I've -- just what I've reviewed,
2 that's it. That's two videos.

3 Q. And that's the videos we have here marked
4 in court?

5 A. Correct.

6 Q. Now, I think when one of the other lawyers
7 was asking you questions, you referred to the fact
8 that perhaps somebody else may have pulled other
9 footage?

10 A. Correct.

11 Q. But are you -- you're in charge -- or you
12 were in charge of this investigation; right? Well,
13 in terms of the STIU unit.

14 A. Yes, as far as our unit. Yes.

15 Q. Okay. And your unit, people in your unit,
16 would be the people that would have access to the
17 digital video recording equipment; right?

18 A. There's other individuals that have
19 access. It not just my -- it's -- at that time it
20 was only supervisors. So my particular guys or
21 people that fall under me would not have access to
22 them until I granted access to them, because you
23 have -- there was -- you have to go in there, and
24 it's -- there had to be a code, you had to have a
25 password, stuff like that. And only supervisors had

1 that.

2 Q. Okay. And if somebody under you wanted to
3 access the video, they would have had to go through
4 you?

5 A. Correct.

6 Q. So you would have had knowledge of it?

7 A. Correct.

8 Q. So do you have knowledge of anybody
9 working for you during -- in the days after the
10 Molina homicide, going back and reviewing video from
11 either blue pod or yellow pod?

12 A. No.

13 Q. Now, when you turned the DVDs over to the
14 New Mexico State Police, were they logged somehow?
15 Did you have to keep track of them within your
16 records to document what you provided the State
17 Police?

18 A. No, they were all turned in. They were
19 turned in with the incident packet, which was the
20 whole incident as far as the investigation. And it
21 was all turned in with also the initial lieutenant's
22 report -- or initial captain's report and all the
23 staff reports, reporting memorandums. They were all
24 turned in within one packet.

25 Q. So one big package was provided to the

1 State Police?

2 A. Correct.

3 Q. And the State Police took responsibility
4 for booking those videos into evidence?

5 A. Correct.

6 Q. Are you aware of any other DVDs that were
7 provided to the State Police to book into evidence?

8 A. No.

9 Q. I want to ask you some questions about the
10 video that you were shown regarding the assault on
11 Julian Romero. Do you recall that video?

12 A. Yes.

13 Q. And we don't need to replay it here, but I
14 noticed when I was watching it, in the lower
15 left-hand side of the video, there were inmates
16 folding laundry?

17 A. Yes, that's their tier laundry.

18 Q. And when the incident happened with
19 Mr. Romero, the inmates just went about their
20 business and continued to fold the laundry. Do you
21 remember that part of the video?

22 A. Yes.

23 Q. And they didn't jump in to stop the --
24 stop the attack on Mr. Romero?

25 A. Correct.

1 Q. And they didn't help him after the attack
2 was over and he was staggering around the unit?

3 A. Correct.

4 Q. Is that unusual in the context of a prison
5 situation?

6 A. No.

7 Q. And can you -- it may sound like a dumb
8 question, but can you tell us why -- like why didn't
9 they go to his aid? Why wouldn't somebody go to
10 somebody's aid in that situation?

11 A. They don't want to get involved.

12 Q. Because if they got involved then --

13 A. Maybe --

14 Q. -- someone could engage them in a fight?

15 A. Correct.

16 Q. So people just turn a blind eye?

17 A. Possibly. I mean, I don't want to
18 speculate, you know, it's depending on what the
19 situation was at that point in time. I mean, maybe
20 they would have got into it. Maybe not. Maybe for
21 the -- just for the sake of, you know, it wasn't
22 their business.

23 Q. All right. And in watching that video,
24 whereas a layperson might be kind of surprised that
25 they didn't go to Julian Romero's aid, from your

1 perspective, that's daily business in state prison?

2 A. Correct.

3 THE COURT: Ms. Jacks, would this be a
4 good time for us to break for the evening?

5 MR. JACK: Sure. I actually have one more
6 line of questioning that should take two minutes.
7 But I guess there may be redirect.

8 THE COURT: Yeah, there may be some more.
9 So why don't we stop.

10 All right. I appreciate everybody's hard
11 work. We'll see you at 8:30 in the morning.

12 All rise.

13 (The jury left the courtroom.)

14 THE COURT: I don't want to spend a lot of
15 time arguing this tonight, because everybody has
16 worked hard today, and we need to get out of here.
17 But I am inclined, after looking at these two
18 documents a little more closely, and so you can
19 think about this overnight, Mr. Beck.

20 But on the document that -- the 2011
21 report, the enumerated list at the end of the report
22 looks like a set of factual findings. So then the
23 entire report is, quote, a "Record of statement of a
24 public office that sets out factual findings from a
25 legally authorized investigation under 803(8)."

1 And then you have the Beech Aircraft case
2 in the Supreme Court that says, "Second, we note
3 that contrary to what is often assumed, the language
4 of the Rule 803(8)(A)(3) does not state the factual
5 findings are admissible, but the report setting
6 forth factual findings are admissible."

7 So it seems to me that the report would
8 qualify as an admissible -- as admissible hearsay
9 under Rule 803(8)(A)(3).

10 I don't see how it comes under 2, because
11 these are not observations. So it's a 3 issue.

12 And then you've got the hearsay within the
13 hearsay issue. You've got the report itself,
14 admissible for its truth. But then, looking at 805,
15 it requires, then, the statements from confidential
16 sources has got to be admissible for their truth.

17 It would seem to me that those statements
18 then qualify as admissible hearsay under 803(6),
19 public records, because the prison officials -- if
20 you look at that first, 803(6)(A), the prison
21 officials recorded information transmitted by
22 someone with knowledge, confidential human sources,
23 and monitoring security threats and recording
24 information from CHSs is a regularly conducted
25 activity in the New Mexico Corrections Department,

1 their Security Threats Investigative Unit.

2 So it seemed to me that you're going to
3 get 803(8) getting in the report, and then the
4 statements by the CS is coming in as 803(6). And
5 then, as far as the report that we have of the shift
6 supervisor -- I guess that would be what it's
7 called -- but it's got Mr. Blanco's signature on it.
8 There is in the middle of the page, it says,
9 "Warden's assessment and recommendations," and it
10 says, "Needs further investigation."

11 So, again, I think that's a finding. In
12 Beech Aircraft, the Supreme Court didn't draw a
13 distinction between factual or opinion findings. So
14 here, with 803(8)(A)(2), it required the hearsay
15 record contain factual, as opposed to opinion
16 findings, and that more investigation is needed.
17 Looks like an opinion, and not a fact. But the
18 Supreme Court didn't indicate that factual
19 findings -- or that the Supreme Court indicated that
20 factual findings included opinions.

21 So again, it looks to me like both of
22 these are going to slip in under 803(8)(A)(3), with
23 the factual findings portion.

24 So think about it overnight. But I'm
25 inclined to think that Mr. Lowry can use these, and

1 these are admissible against the Government.

2 MR. BECK: Your Honor, I'll just point out
3 for the Court, the Advisory Committee notes from the
4 1972 proposed rules note to paragraph 6, where it
5 talks about sources of information presenting no
6 substantial problem. It says, "If, however, the
7 supplier of the information does not act in the
8 regular course of business, an essential link is
9 broken. The assurance of accuracy does not extend
10 to the information itself. And the fact that it may
11 be recorded with scrupulous accuracy is of no avail.
12 An illustration is the police report incorporating
13 information obtained from a bystander. The officer
14 qualifies as acting in the regular course, but the
15 information does not."

16 And so the information from the CIs takes
17 whatever may be hearsay within hearsay out of the
18 803(6). Now, I'll look closer at 803(8).

19 And I tend to agree with Your Honor that
20 the limited factual finding from Mulheron in the
21 Blanco statement, and maybe those factual findings
22 at the end come in under 803(8). But the rest of
23 the document, the information from CIs, is just like
24 information taken by the police from bystanders.
25 Those do not come in under 803(6) because the

1 bystanders, and in this case the CIs, are not under
2 a legal duty to report.

3 And so the trustworthiness that a
4 regularly conducted business activity has does not
5 apply when the underlying source is not trustworthy,
6 and is not under a legal duty to report.

7 THE COURT: All right. I'll think about
8 it overnight. But that's -- I'll look at what was
9 said. If y'all want to send me anything tonight,
10 don't hesitate to do that. All right, y'all have a
11 good evening.

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
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2 STATE OF NEW MEXICO

4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 3rd day of February, 2019.

14 
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